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# PROCEEDINGS OF

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## LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,  
Queen's Park, Toronto, Ontario.

Tuesday,  
January 28, 1958.

JAMES A. MALONEY, Chairman

HAROLD PERKINS, Secretary

GEORGE T. WALSH, Q.C. Committee Counsel

## MEMBERS:

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Donald C. MacDonald  
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Albert Wren  
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APPEARANCES:

Mr. J. B. Metzler Deputy Minister of Labour

ONTARIO FOREST INDUSTRIES ASSOCIATION

Mr. J. B. Conlin	Counsel
Mr. C. R. Mills	Manager, Ontario Forest Industries Ass.,
Mr. A. H. Burk	Vice-President in charge of woods operations, K.V.P. Co. Ltd., Espanola, Ontario,





APPEARANCES (Cont'd):

MR. J. C. ADAMS, Q.C.

MR. E. MACAULAY DILLON, Q.C.

- - - - -

MR. MYERS: (Acting Chairman): Gentlemen, before going on with the brief submitted by the Ontario Forest Industries Association, I would like to make a comment so it will be on the record about a strike at the Babcock-Wilcox & Goldie-McCullough Company in Galt which was referred to in the brief of the Automobile Transport Association of Ontario.

Over the weekend, I made inquiry about the Babcock-Wilcox & Goldie-McCullough Company strike, the strike which is referred to in the brief, and these are the facts: The Babcock Wilcox & Goldie-McCullough Company wanted to build a large building as part of their plant and they decided that the way to build it most economically was by subletting various parts, and they sublet the foundations and they sublet the building of walls, and since they are boiler makers, they felt they best do the work most economically by members of their own staff, and also members of a union, and the work was proceeded on that basis. Presently, I think the Steam Fitters' Union, or one union, came to them and said





"You have to withdraw your own steam fitters, doing steam fitting work in your own building, and you have to hire a subcontractor whose workmen are members of our union, and if you don't, you will be sorry". The Babcock-Wilcox & Goldie-McCullough Company refused to do that, and forthwith the plant was picketted, and because of the picket lines, the automobile transport trucks would not cross the picket line in their operations, and they were interfered with to the extend the Goldie-McCullough Company eventually capitulated and they hired a contractor who was satisfactory to the union, and they then asked the union to withdraw their picketers so that they could get on with their business. And the union said, "Oh, no; we are going to keep the picket line there still, and we are going to keep it there because there are some union employees working on one of the other trades in the building who have not paid their union dues to their own union, and so we shall keep the picket line until these defaulting members pay their dues to their own union".

I just want to say that for the benefit of the record.

Now, then, gentlemen, what we have been doing is to have the people who are presenting the briefs read them to us, and then we go over them page by page and discuss them. In reading the briefs, it will be quite in order for you to sit, if you wish to.

MR. PERKINS: I would like to present to you





this morning, Mr. Chairman, Mr. A. H. Burk, Vice-President in charge of Woods Operations; Mr. C. R. Mills, Manager of the Ontario Forest Industries Association; and Mr. J. B. Conlin, their counsel.

THE CHAIRMAN: Who will present the brief?

MR. CONLIN: Mr. Chairman, as counsel for the Association, I find it falls on me to read the brief.

-- (Mr. Conlin reads the brief of the Ontario Forest Industries Association)

THE CHAIRMAN: Thank you very much, Mr. Conlin. Now, gentlemen, we will proceed to consider this brief in the usual method. I would ask the members of the committee if there are any questions arising on the submission on page 1? Page 2? Page 2, item 4? Page 3?

MR. WREN: On page 3, article 5, you mention here "lack of responsibility demonstrated by some trade unions". How many trade unions do you have any collective-bargaining agreements with in your Association?

MR. CONLIN: By and large, we could say that the trade unions that we deal with are in two classes: in the pulp and paper industry, the major union is the Pulp Sulphide and Paper Makers Union, and there is another union, the Paper Makers Union, which has some collective agreement with a minimal number of the owners; and then on the other side of the page the industry, in so far as it works in the bush, is largely dealing with the Lumber and Sawmill Workers' Union, although



there are one or two or a very few contracts outstanding with the International Woodworkers of America.

MR. WREN: Do you find the Lumber and Saw-mill workers lack responsibility?

MR. CONLIN: In so far as it affects the operation in the camps. I think succinctly stated, sir, the experience of our Association members has, generally speaking, been good, in so far as its employer and employee relations are concerned. But in the bush, that is not the case - in these camps.

You will appreciate, I am sure, sir, that the camps are spotted here, there and what have you, and all too frequently, and where the major difficulties encountered by our Association members are concerned, they are for reasons completely unconnected or frequently unconnected with the terms of employment. The men just refuse to go out to work in a camp. It might affect one camp, it might affect two or three, but they might say "we don't like this" - in some cases they don't like the cook or the way the food is being prepared, although that particular employee is frequently represented by the union because he is included in the bargaining unit. But all too frequently we have work stoppages that amount to a day, sometimes half a day, sometimes four or five days, before the clash can be worked out, and, generally speaking, it is worked out.

But the experience that has been recounted





to me indicates it has been worked out after a day, a half day, two and one-half days, in some cases much longer, and the men agree to follow the grievance procedure that has been laid down in the Collective Agreement, provided -- and generally, that is the big proviso -- provided the Company will agree they will not take any action against any of the men who withdrew and stopped work, and in order to get the operation started and going again, the employer frequently succumbs and says we won't take any action, and they sit down and determine what was the problem, and generally speaking, the experiences that have been cited to me, sir, have been --

MR. WREN: What happens when you approach the business representatives in the area or the area organizers and officers in charge of those unions? Do they see to it that matters are attended to, this lack of respect for the sanctity of the collective agreement?

MR. CONLIN: They frequently say, sir "we can't control the men". That is the problem. It is my submission and our submission to you, that if the union was held responsible in any case in which they have been in breach of the contract, and have caused, as a result of the breach, losses to the employer because they did not follow the procedure laid down in the contract, then, in my submission, you would not





have a work stoppage. You would have the bargaining in accordance with the contract as it had been achieved.

MR. WREN: And you say, then, just to repeat what you said before, as far as the unions within the mills are concerned, you generally get along pretty well with them?

MR. CONLIN: Mr. Burk, who is here on the left, sir, has indicated to me the experience in the mills, and generally speaking -- that is the pulp and paper mills are generally speaking very good.

MR. BURK: Excellent.

MR. WREN: Well then, the woods operation...

MR. CONLIN: The woods operation is where the Association members have had their difficulties.

MR. MACDONALD: Well, Mr. Chairman, it is rather difficult to assess some of these rather strong accusations until we have had some specific instances, instead of these general cases or general statements.

MR. CONLIN: For instance, I have been afforded examples of complaints that employers and member companies in this Association have, and perhaps if I may, sir, I could indicate what they are.

I have before me a memorandum that indicates these are some of the instances. For instance, in the Abitibi Power and Paper Company Limited, Lakehead Division, it is indicated that on February 20th, 1957,





the union steward and a member of the Camp Grievance Committee at Camp No. 226 approached the camp foreman with several complaints against a strip boss. They contended that the strip boss was showing favouritism in handing out the strips and that he had discriminated against two men by taking their skidding horse away from them for no good reason. They said that unless the strip boss was removed immediately the cutters would not go to work the following morning. The foreman replied that he would investigate the allegations made by the men as soon as possible but he could not remove the strip boss.

On the morning of February 21st, 35 cutters refused to go to work, but eight others did go to work.

At 11.25 a.m. on February 21st, the president of the local contacted the General Logging Superintendent. He asked if the company would consider removing the strip boss while the investigation was going on, because he thought he could get the men back to work if this was arranged. The General Logging Superintendent agreed to remove the strip boss during the investigation.

A Union organizer held a meeting at Camp 226 on the evening of February 21st and the men went back to work on the morning of February 22nd.

The various allegations made by the men were investigated by the District Logging Superintendent and the Camp foreman. They did not find any evidence that





would justify the removal of the strip boss. The strip boss had gone to town during the investigation and later refused to return to this former job.

Now, the incident was the loss of one day by those thirty-five men on that job while they simply said this is what is wrong. In our submission, if this had been investigated in the usual way under the grievance procedure where it could have gone forth, perhaps everybody could have been satisfied, but as far as could be found out by the management, the incident in case or in point at the moment, there was no real basis for the complaint or for, what in our submission, was simply a wildcat strike.

Now then, there was a further incident at the Abitibi Power and Paper Company of the Iroquois Falls Division. On February 8th, 1957, a work stoppage took place at Camp 27. A group of cutters and skidders at the camp demanded that the scaler be removed. The Company had not received any definite complaints or grievances from the men in regard to their scale. The group of cutters and skidders were able to obtain the support of other employees in the camp and also at Camp 26 in the general area, and other operating districts, other than that, were not affected.

Now, the president of the Local was contacted by the Divisional Woods Manager, and an organizer of the local proceeded to the camps and met with the men.



Afterwards, they met with the Company at Iroquois Falls. After the company agreed that they would not take or make any discrimination or in any way discriminate against any of the men who were taking part in the work stoppage and that the company scaler would not return to work until a thorough investigation had been made of any definite complaints in regard to the scale, the employees at the two camps then went back to work.

You will note they stopped work on February 8th and finally went back to work on February 13th after the Company agreed that it would not discriminate against the men who were entering into this work stoppage, and they would have the scalers stand aside until they got some definite grievance or indication of what he had done wrong.

I have not got the direct outcome of that one. Perhaps you can tell me. In any event, it was a five-day work stoppage.

The contract provided a means whereby such work stoppage or grievance can be discussed between them.

There are other such instances. This is a matter of merely an hour and a half lost, for instance. This has to do with Spruce Falls Division. On February 22nd, Camp 60, under instructions of the Union Steward the crane operator refused to load contractor's truck





being driven by the contractor on the grounds that the contractor had refused to join the Union. The contractor had not worked on this particular job for some thirty days prior to this, but he had worked off and on in the past and he had indicated an antagonistic feeling toward the union. The district superintendent got the men to agree to load the truck this once, but they stated that they would not load it again, and after the loading was under way, the contractor then agreed to join the union and that settled the matter.

But the men just stopped work for an hour and a half until they had achieved that objective. I have several examples of that if you would like me to continue.

MR. MACDONALD: My point is simply that I have often heard these statements and sometimes I have had the opportunity of hearing the other side of the story, and it is very difficult to assess it; in fact, in many instances what you find is that the actual incident which provoked the work stoppage is only one of a long series, and to credit the work stoppage to this one incident is about the same as saying that the First World War began because some Archduke was shot. It was only the straw that broke the camel's back. I think it is necessary -- we can't do this this morning -- but it is necessary to assess all sides of the picture to come to a conclusion as to exactly





what the picture is for labour-management relations.

THE CHAIRMAN: I think that is apparently the point. There is a grievance procedure set down in this agreement and the workers and members of union are just not following it.

MR. MACDONALD: I can cite to you a specific instance which was related to me of a specific foreman in a camp who just refused to entertain grievances time and time and time again, until one morning -- and this may be illegal and this may be wildcat -- the men suddenly were all sick and they could not go out to work, and this went out to the foreman and it went to somebody higher, and they found this accumulation of grievances and it was cleaned up.

This sudden sickness on the part of all the men may not have been completely according to hoyle, but it was as a result of an unprocessed group of grievances and incidents that followed them; but I do not think there was any serious time lost or anything.

I think it is a very complex picture which cannot be assessed by having only one side of it.

MR. YAREMKO: In these cases you have cited, Mr. Conlin, it would appear that both the scaler and the men in charge of the -- the strippers, were both guilty ...

MR. CONLIN: No.

MR. YAREMKO: They were suspended while the



investigation was going on?

MR. CONLIN: Oh, indeed.

MR. YAREMKO: They were assumed to be in the wrong?

MR. CONLIN: That was the only basis upon which we could talk the men into going back to work in those particular instances. We don't assume them to be guilty; in fact, the investigations --

MR. YAREMKO: No, but the unions --

MR. CONLIN: The investigation in these instances, as I have been instructed, sir ---

THE CHAIRMAN: In other words, the procedure is set down in the agreement and the union members have not followed it?

MR. CONLIN: That is my submission in a nutshell, sir, and succinctly stated. As I have said before, our experience by and large is very good, and the major difficulties that are confronted by our Association members have to do with woods operations.

I admit it is probably a hard life in the woods. I would not want to take it on because I have never been in the woods in that kind of thing. But we submit that is a point that deserves of consideration when you are considering the amendment to the legislation.

MR. WREN: It is probably a case of the Woodworkers' Union getting together a staff equally as





competent and as intelligent as you have in the union staff in the paper mills themselves. I live right amongst them.

MR. CONLIN: Yes.

MR. WREN: I know one instance where the union concerned said to an operator "If you don't accede to our request, collective agreement or no collective agreement, we will put you out of business and put the whole community out of business".

MR. CONLIN: That is right. I know that.

MR. WREN: That actually is a case where, if the union people in the paper mills could take these union organizers in hand and give them a course of instruction on the sense of responsible collective bargaining, I think our troubles would be over.

MR. MACDONALD: That is all very fine, Mr. Chairman, but this happens to be a union which at one time was dominated by Communists in which there was really a rough show, and I submit to you the group of people who are in there now are as responsible as you will ever get in this kind of industry.

Their irresponsibility, so-called, is as a result of the kind of problems they have to cope with and the kind of circumstances they sometimes have to work with. I don't know whether we want to go into it here, but we have discussed it many times, the lack of civil rights involving people, because of the fact





they are on Company property, and things that are normally a civil right that a man would have, there would be no question of at all, is denied him because it is on company property, the difficulty of union organizers getting in and being able to fulfill the objectives of the Labour Relations Act -- all these are part of this very complex picture. They can not be dismissed by evidence of irresponsibility on the part of the union organizers.

MR. YAREMKO: That is a very long question.

THE CHAIRMAN: Was it a question?

MR. MACDONALD: It was a statement.

THE CHAIRMAN: Page 3, article 6, gentlemen, "Unlawful strikes".

MR. WREN: On page 4 under "Unlawful strikes", use of picketting as a secondary boycott. How often would you experience secondary boycotts in the woods?

MR. CONLIN: We have not had, so far as our industry is concerned, any instance of it, so far as I can speak of, Mr. Wren.

MR. WREN: I have never heard of it.

MR. CONLIN: There was one instance of threat that was never carried out. The observation in the brief is one of general application.

THE CHAIRMAN: Article 7, article 8. Article 9. Page 5, article 10. The reason you are not being questioned on some of these is that we have received these



submissions before.

MR. CONLIN: Mr. Chairman, I have read with considerable interest all the previous reports in respect of what has gone before your committee for a considerable period of time, and I appreciate that it is repetitive.

THE CHAIRMAN: Article 11, 12? Page 6, article 13?

MR. MACAULAY: Just as a general observation, on page 1, you have fifty-six member companies in your Association. What proportion of the companies engaged in the type of industry involved in this ambit are members of the Association?

MR. MILLS: I can answer that this way, Mr. Chairman. While the number of companies numerically is small, in comparison -- when you consider all of the very, very small operators, woods operators in the Province, the member companies have cutting rights on roughly ninety per cent. of the area of Crown land under licence.

MR. MACAULAY: Well, the cutting rights does not help much, does it, in relation to pulp producers?

MR. MILLS: Yes.

MR. MACAULAY: So, although you may or may not have a very large proportion numerically, you have, you would suggest, canvassed the industry in a very large way?

MR. MILLS: Yes. The majority of the employees





in the woods industry are employees of the members of the Association.

MR. MACAULAY: Did you indicate - not here - did you indicate how many employees are involved, as being employees of either the forest industry as a whole or of your member companies?

MR. MILLS: No, we didn't.

MR. MACAULAY: Can you give an estimation of either? How many employees in Ontario are engaged in the type of operations referred to in Article 2?

MR. MILLS: I can't give you any more than a guess.

MR. MACAULAY: Well, that will do.

MR. MILLS: I would say roughly -- oh, maybe twenty-two thousand.

MR. MACAULAY: Twenty-two thousand?

MR. MILLS: It might be more, it might be less.

MR. MACAULAY: And would ninety per cent of those employees be --

MR. MILLS: Pretty close to ninety per cent.

MR. MACAULAY: Would be engaged by members of your Association?

MR. MILLS: That is right.

MR. MACDONALD: Mr. Chairman, there is one small point. I don't know whether this Association has given any thought to it at all. Our existing Act excludes

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certain workers from coming under the Labour Relations Act, and among them are horticultural workers. Now, I am informed that this has been interpreted as excluding non professional workers in the nursery, and therefore, they cannot be included in the bargaining units.

Would you have any objection to the Act being altered so as to permit workers who are not professional nursery people or professional forestry people, but just people working in the nurseries, as eligible for collective bargaining?

MR. MILLS: Well, there is only, as far as I know at the moment, there is only one company, woods operating company that has a nursery, and I believe that some of their nursery employees are already members of the union.

MR. MACDONALD: Well, my information was that there was some difference at some point, and that some of them are excluded, and in any case, I think the hope of the Department of Lands and Forest is that many more companies will have nursery workers because many more of them will have nurseries, and therefore, this might become a bigger problem than it is at the moment.

My question is simply, would you object to non professional - I am not raising the point about professional people, but non professional people working in the nurseries? Is there any logical reason why they should not be included in the collective bargaining unit





in your opinion?

MR. MILLS: Well, I have not thought of it at all, and just speaking off hand, I can't see any reason against it. Can you? Can you see any objection to nursery workers being members of a union?

MR. BURK: I don't see any objection to it.

MR. MILLS: I can't see any objection to it myself. As I say, I have not thought about it, but office workers are members of unions, camp clerks are members of unions, scalers are now members of a union -- I can't see any reason why the nursery workers, if they are so inclined, can't be members of a union.

MR. MACDONALD: Thank you.

THE CHAIRMAN: Anything further, gentlemen?

MR. YAREMKO: Mr. Conlin, that incident you gave us where a man refused to load a truck, you used the word "tractor". Just exactly what was it? Did he own a truck?

MR. CONLIN: Oh, contractor.

MR. YAREMKO: Yes.

MR. CONLIN: The man hauling. Perhaps you could define this business of contractors, Mr. Mills. There are all kinds of them.

MR. MILLS: There are all kinds of contractors.

MR. YAREMKO: The specific man.

MR. CONLIN: This man --

THE CHAIRMAN: Who would not join the union.



MR. CONLIN: Yes. This man had a contrast to haul from the bush to the mill, and he gets so much per load. Isn't that the way it goes, Mr. Mills?

MR. MILLS: So much per cord.

MR. CONLIN: So much per cord.

MR. YAREMKO: Did he own his own truck?

MR. CONLIN: Yes.

MR. YAREMKO: He owns the truck and he is delivering from the woods to the mill?

MR. CONLIN: Yes, sir.

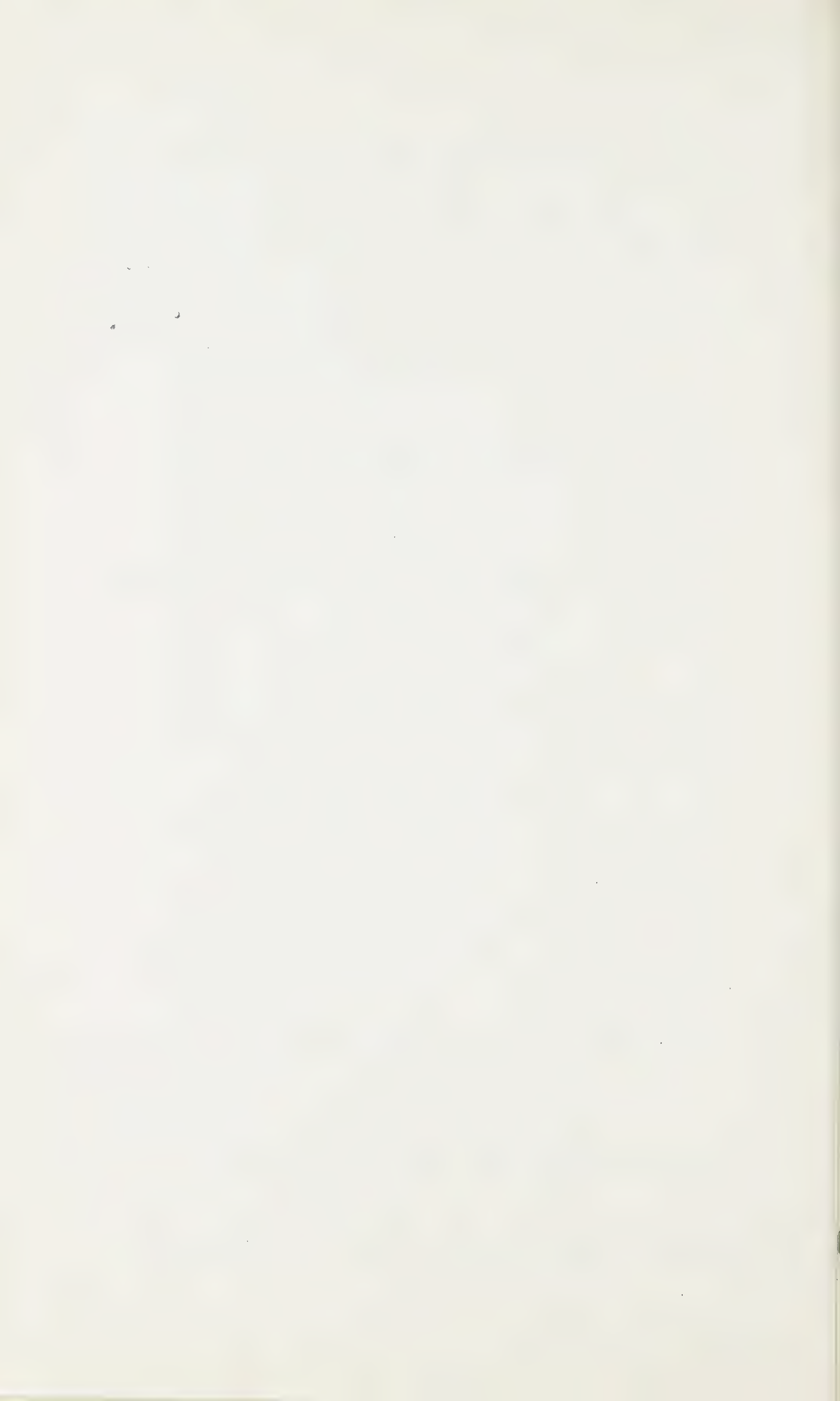
MR. YAREMKO: And the objection was that they insisted upon him joining the union?

MR. CONLIN: Yes. You see, there is another instance, as a matter of fact, that is rather similar to that. Some of these fellows - there is a contractor in that case - there are other contracts, that is, we refer to them popularly as contractors, although they are actually piecework employees in some instances in the bush. Now, he is a contractor in that he gets paid so much a cord. He is paid depending upon his production to cut. We have had -- what was the name of that property that had the John Deere tractor?

MR. MILLS: A number of them had the job.

MR. CONLIN: I am referring to the one where the Union said they had to sell their tractors.

MR. MILLS: If I may explain that one, Mr. Chairman. The employees of three or four companies,





either individually or two or three of them together, purchased John Deere tractors. That, as you may know, is just a very small tractor, and they purchased these tractors to assist them in their cutting and skidding of wood, and by so doing, they increased their earnings. The union notified these men that they must dispose of their tractors or they would lose membership in the union, claiming that it was against the Constitution of the union for an individual to own such equipment, and the men had to dispose of their tractors. In most instances, I believe, the company bought the tractors from the men and then turned them back to the men for their own use.

MR. YAREMKO: Was there any suggestion in the original purchase by the employees that ultimately the tractors would be purchased by the company?

MR. MILLS: No. The men bought the tractors in the same way that they bought their own power saw.

THE CHAIRMAN: That is a matter of internal management of the union. They tell their members what to do. We have no power to go into that. Is there anything further, gentlemen?

If not, gentlemen, may I express to you the thanks of the committee for this brief that you have presented to us. I can assure you that it will receive our very serious consideration.

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BRIEF BY J. C. ADAMS, ESQ., Q.C.

THE CHAIRMAN: The next presentation is from Mr. J. C. Adams, Q.C.. Associated with you are whom, Mr. Adams, in this presentation?

MR. ADAMS: This is personal.

THE CHAIRMAN: Oh. Would you be good enough to proceed, Mr. Adams, to read the brief?

MR. ADAMS: (Reads brief)

THE CHAIRMAN: Thank you.

MR. ADAMS: Mr. Chairman, I have tried to put these views forward without heat and without too much argument, simply for the sake of brevity. But I would be pleased to discuss any of them, if any of you wish to ask questions.

THE CHAIRMAN: In effect, Mr. Adams, it would appear that the whole Act should be eliminated, as far as you are concerned.

MR. ADAMS: Oh, no.

THE CHAIRMAN: I mean in its entirety.

MR. ADAMS: By no means. I have supported a great deal of it.

MR. REAUME: You have pulled it apart pretty well.

MR. ADAMS: I certainly think it should be substantially revised.





MR. REAUME: I should think so.

THE CHAIRMAN: Well, gentlemen, we will proceed in the usual manner of directing your questions to Mr. Adams. Is there anything arising out of page 1, article 1? Articles 1, 2, 3 and 4?

MR. REAUME: I want to ask a question, if you don't mind. Mr. Adams, in the ordinary course of your work, do you act for unions at all?

MR. ADAMS: No, only for management.

MR. REAUME: Only for management?

MR. ADAMS: Yes.

MR. REAUME: It is quite obvious from your brief, I would think.

THE CHAIRMAN: Article 5. Page 2, 6, 7 and 8. With reference to 8, Mr. Adams, the only reason you say that trade unions are still unlawful is because they have no legal entity?

MR. ADAMS: That is right. They have only been given legal status with respect to a proceeding under the Labour Relations Act, not generally.

MR. MACDONALD: For a layman, we are getting into terminology that is getting tricky. Mr. Macaulay has just informed me, and legally I think it is correct, there is no such thing as a legal strike.

THE CHAIRMAN: According to Mr. Adams, a union has no right under the present Act to hold property or to sue or to be sued.



MR. MACDONALD: Therefore, it is not a lawful organization. •

THE CHAIRMAN: Well, it has no legal entity. Page 3, 9 and 10.

MR. WREN: Mr. Chairman, as a matter of interest, in paragraph 9, would you have the Secretary secure a copy of the Law Journal?

THE CHAIRMAN: Yes. The Labour Law Journal has been referred to in Mr. Adams' brief on page 3, with particular reference to page 762 of the Labour Law Journal for November, 1957. Mr. Adams will tell you where you can get that or he might be able to supply you with a copy of that.

Article 10.

YAREMKO: Mr. Adams, these matters that you refer to in article 9 set out in 762, do they carry out No. 8?

MR. ADAMS: I think these are only statutes which accord a legal status of sueability, etcetera, to unions in various States of the United States.

MR. MACDONALD: Mr. Chairman, I just want to make this observation: I think when we get this copy of the Labour Law Journal, it is going to be an extremely important aspect of our committee, and I think it is going to take a great deal of time to examine exactly to what extent unions have been made legal entities in one form or another in one jurisdiction,



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because, for example, this suggestion of the legal rights is to indicate the law should be repealed. This is the kind of thing that has been considered in many countries and usually with such results that they very quickly reinstated the Act, because the resulting chaos and difficulty was such as to create a worse situation rather than a better one.

I have no particular question here, but it seems to me that this business of going into just what extent jurisdictions have established a legal entity or have and then found it was painfully worse and then reverted to the previous ---

THE CHAIRMAN: Well, those are matters which will receive our careful attention.

MR. YAREMKO: Mr. Chairman, I wonder if Mr. MacDonald would be kind enough to provide the committee with those situations that he has referred to where Statutes have been enacted and found to have been painfully worse, I believe was his expression, and then repealed.

THE CHAIRMAN: I am sure Mr. MacDonald will be happy to do that.

MR. MACDONALD: The classical example is one which has been before this committee many times -- I can't point to the original historical background immediately -- namely, the situation of great prejudice as a result of the Taft-Bailey decision and the action





of the Government within a very few years to negate the conditions of the Taft-Bailey Act.

MR. YAREMKO: Have there been other jurisdictions which have introduced Statutes referred to by Mr. Adams and repealed? Now, this is a point of information. Mr. MacDonald is continuously referring to such situations, because if there are such, Mr. Chairman, we should have not just the one incident -- and I am fully aware of the incident that he has referred to, but there are many jurisdictions in the Western World; there are forty-eight in the United States; if there have been legislation and repealed, let us find out about them.

THE CHAIRMAN: I am sure Mr. MacDonald will be happy to supply you with that information.

MR. YAREMKO: I can assure Mr. MacDonald the point of my query is, I am not aware of in how many other instances this has been done. I am sure the incident of the Taft-Bailey ---

THE CHAIRMAN: You did not say there were many instances of it.

MR. MACAULAY: Are you aware of any others?

MR. MACDONALD: Specifically speaking, no.

MR. MACAULAY: I think it is important.

MR. ADAMS: In England, the legislation repealing the Taft-Bailey decision did not take away the legal entity of unions; it only exempted them from



liability for a particular class of actions.

MR. MACAULAY: What kind of action?

MR. ADAMS: Well, the Taft-Bailey decision, if I may presume to speak from memory, not having read it for quite some time, held the union liable for damages arising out of a strike - not for unlawful conduct during the strike, but simply the damages which flowed directly from the withholding of labour, and that particular liability was taken away by a statute which followed. But the unions' legal entity remained, their right to sue remained and the liability to be sued remained. You will find quite a similar situation in the British Columbia legislation.

MR. MACAULAY: Was it an illegal strike in the sense -- it was a legal strike, was it, what we have been calling a legal strike?

MR. ADAMS: It was a strike with respect to which there was no statute to make it either legal or illegal. We have in this province fallen into this loose terminology. People speak of legal strikes under our statute when in fact they mean a strike which is no longer prohibited by the statute. There is no such thing under our present legislation as a legal strike.

MR. MACAULAY: The English situation is not as sweeping as it has been suggested.

MR. ADAMS: No.

MR. MACAULAY: Where there is a strike which





is not prohibited, there can be no damage action following, but where a strike is in contravention of the Act, then can there be an action against the union?

MR. ADAMS: In England?

MR. MACAULAY: Yes.

MR. ADAMS: I don't believe in England there is any statute which makes a strike unlawful at any time.

MR. MACAULAY: Well, can you sue in England a union?

MR. ADAMS: I would not want to be held to this as a strict legal opinion, but it is my impression you can issue a writ against a union in your name for any cause of action, but you take your chances whether you have a good one or not.

MR. MACAULAY: You can do that here?

MR. ADAMS: Of course. But certain liability for tort which would ordinarily follow from the common law has been taken away by special provisions of the statute. It is a very limited thing.

MR. MACAULAY: Will you find out what it is, Mr. Chairman?

THE CHAIRMAN: Yes, I can.

MR. MACAULAY: Is there an Act, Mr. Adams?

MR. ADAMS: Yes. There is a statute. The exact name of it I can't recall at the moment, but I



believe it is the Trade Unions Act.

MR. MACDONALD: Quite frankly, if I gave you the impression I am familiar with it, I am not familiar with it; in its strict legal detail and context I am not.

MR. MACAULAY: Well, you said it repealed something. What did it repeal?

MR. YAREMKO: Mr. Metzler, the Taft-Bailey case, I recall it very well from my law student days, I can cite it, but the details of it I don't recall. I remember we spent a good deal of time on the Taft-Bailey case and certain other cases which followed that. There must be available a fairly short resume of the Taft-Bailey in the Commons on it.

MR. METZLER: As a matter of fact --

MR. ADAMS: If I may refer you to the very excellent pamphlet called the Trade Union Law in England, published in 1935, while it is not written by a member of the legal profession, it is nevertheless, as far as I know, a most accurate summary of the important aspect of the trade union law both in England and in Canada up to that time.

MR. MACDONALD: 1935 is the date, is it?

MR. ADAMS: Yes, it is. Margaret MacIntosh is the author and she has done an excellent job discussing leading cases, including the Taft-Bailey case, which explains the nature of the legislative changes



which follow.

MR. YAREMKO: Well, we have certain cases in Canada...

MR. ADAMS: Yes. Most of them are referred to in here.

MR. MYERS: Do you think a union ought to be incorporated, and in that way establish its entity?

MR. ADAMS: No, I can't see that merely making unions -- making it a statutory requirement that they become incorporated bodies would solve the problem unless, of course, you make provision for some very special kind of corporation, because the rigidity of our Corporations' Statute would not be appropriate for trade unions.

THE CHAIRMAN: Your recommendation is contained later with reference to licencing.

MR. ADAMS: I think licencing is the answer rather than corporations.

MR. MYERS: It has been suggested, I think, by someone, that a union is merely an association and all the members of the union would be responsible for its actions; is that so?

MR. ADAMS: Well, you are getting into an area there, now, the extent to which an individual member of the union is responsible for what the union does, or the extent that the union is responsible for every tortious act of its members. It is quite a difficult





subject. You see, a corporation is not responsible for everything that its shareholders do.

MR. MYERS: No.

MR. ADAMS: Nor is the shareholder responsible for everything that the corporation does. But I say the answer is not too simple to make the unions completely immune from the law.

MR. MYERS: I was wondering how you were to establish the entity of a union if you do not do it by corporation?

MR. ADAMS: Well, you simply give it a license -- licensing statute and then it will have a legal entity for all purposes.

THE CHAIRMAN: Can we postpone it until we come to that feature of it? Paragraph 10, page 3. Article 11, page 4.

MR. MACDONALD: Mr. Chairman, article 11 is a little short of being revolutionary, at least in terms of our present Act, and it seems to me that what in effect you are asking for is the legalizing of company unions.

MR. ADAMS: In 11?

MR. MACDONALD: Yes. Any organization that has not got collective bargaining rights or that has not collective bargaining rights in the sense of being within the framework of our existing Act, a company kind of union would fulfill the kind of defence you got there



in advancing the interests of the workers?

MR. REAUME: Perhaps he would explain what other types.

MR. ADAMS: I am not following you at all, Mr. Macdonald. I am saying in 11 there is no basis for the Government to force people to have unions. I point out that there is such a thing as collective bargaining without unions, and in some cases in which it is not necessary.

MR. MACDONALD: Well, my point is with respect to that middle sentence there: "It should be noted also that collected bargaining can be accomplished by a group of employees acting directly as principals or through agencies other than trade unions".

MR. ADAMS: Yes.

MR. MACDONALD: Well, in effect you are saying that a company union can do the job?

MR. ADAMS: No, no. I am not talking about company unions at all.

MR. MACDONALD: Well, wouldn't a company union fulfill that defence?

MR. REAUME: What other agencies are there?

MR. ADAMS: First of all, it is not unusual for a small group of employees, three or four, to bargain collectively with their employer as principals, than the whole bunch of them to act as a committee. They are too small to bother with a union or to have any kind



of an agent. They just do it themselves. He sits down with all of his employees and works out his collective bargaining without the intervention ---

MR. MACDONALD: But if you have got an organization that has not got some sort of status in law, what powers has it to do any collective bargaining?

MR. ADAMS: Well now, I was not entering into the merits of whether they could bargain more effectively or less effectively. I simply point out as a matter of law they can do it, and your present statute by inadvertence deprives those employees of the right to strike, and says, in effect, before you can strike you must first join a union, and I say it is a lot of nonsense.

The right to strike is much too sacred to be bandied about that way, and moreover, it is quite possible for a group of employees to bargain effectively through an agent which is not a union.

MR. MACDONALD: For example?

MR. ADAMS: Jolliffe, Lewis & Osler, for example. It is not common; it is not done very often; but it can be done. And if they sought to bargain that way, they would be, under your present statute, prohibited from striking, prohibited from having any form of collective action effectively.

MR. MACDONALD: As I recall earlier in the hearings of this committee, we were informed





by the representative of the Labour Relations Board that half of the unions in the province now are not certified; they have not bothered coming into the Act.

MR. ADAMS: That is right.

MR. MACDONALD: They have not bothered to get certification under the Act. Well, in law, I think obviously, what you are saying is true, but to draw some of the conclusions you do from it....

MR. ADAMS: There is no distinction so far as the right to strike is concerned, between employees who have a union which is not certified but which has succeeded in getting a contract, and one which is certified. They both have the same status for future bargaining. In the initial bargain they did not have it, but for future bargaining they both acquire the same status. But an employee or a group of employees who decide they want to bargain collectively but don't want a union to do it for them, they have no right to strike under the statute.

MR. MACDONALD: When you say "they don't want a union to do it for them", in other words, they do not want an organization that is actually certified?

MR. ADAMS: They just don't want a union. You see, if there are only two or three men working for an employer and as a group they get along with their boss and they do bargain with them, why do they need a union? Why should the statute say you must have a



union in order to put economic pressure on your employer? You found an instance last summer, I believe, in Western Canada. I understand a group of school teachers went on strike. They did not have a union. I read in the newspapers where some altar boys in the Province of Quebec went on strike. These aren't important economic issues...

MR. REAUME: I am rather hazy on this point: I understand you to say that a group of employees who are not members of a union have no right to strike?

MR. ADAMS: That is right.

MR. REAUME: Even though they have a company association?

MR. ADAMS: They have to be represented by a trade union, as that expression is designed under the statute, before they have a legal right to strike.

MR. REAUME: Supposing they band themselves together as a group. Have not those people a right to strike? First of all, you said there is no such thing as a legal strike. But I mean, haven't they got the same right as members who are bona fide members of a union?

MR. MYERS: What is the section, Mr. Adams? Do you know?

MR. ADAMS: Section 49.

MR. MYERS: What does it say?

MR. ADAMS: "Where no collective agreement



is in operation, no employee shall strike until a trade union has become entitled to give, and has given notice, under Section 10..."etcetera.

MR. MYERS: Yes. I see what you mean.

MR. MYERS: The right to strike under this statute is taken away and restored only to the employee who has a trade union representative.

MR. REAUME: I have known cases where the very extreme is true, that company unions, if you can imagine that, have gone out on strike.

MR. ADAMS: I am not concerned at the moment with whether the union is a company union or otherwise. If it is a union, as the statute defines it, they they may strike, and if they don't have a union, they can't. And moreover, and I don't think anybody is complaining about this particularly, but it is an incidental point, no employer can lock out his employees until they have joined a trade union. That is just an incidental result.

THE CHAIRMAN: Anything else on page 4, gentlemen?

MR. YAREMKO: No. 11, Mr. Chairman, this sentence that has been referred to, "...the collective bargaining can be accomplished by a group of employees acting directly as principals or through agencies other than trade unions." How would that come within the scope of your licensing arrangement?





MR. ADAMS: They wouldn't.

MR. YAREMKO: They would not?

MR. ADAMS: No. I am suggesting that you license trade unions. As far as I am concerned, these people should be under the same restrictions as others. If they want to strike, they would have to apply to the administrator for permission to strike. Whether or not they would get it, I have not considered their fate because the number of people who seek to bargain or who would like to go on strike is of no great benefit.

MR. REAUME: It would be an excellent idea if we were to license all groups -- the Orange Lodge, Masonic Order, the Knights of Columbus.

MR. ADAMS: Well, I may say in passing, that this Government has licensed a great many groups. It is the most popular and the most efficient method of controlling human affairs, and I can see no basis whatever for not doing it to trade unions. They need it more than anything else for their own interest.

MR. MACDONALD: In the context that you are using the word trade union here, you are using that phrase as any group of people who band together for collective bargaining purposes, and who are not certified, and in effect, not unions.

MR. ADAMS: That is right. And as far as I am concerned, they should not get a license.



MR. MACDONALD: In other words, you are saying, within the context of your phraseology, that the half of the collective bargaining agencies in this Province which have not been actually certified, are in effect not unions?

MR. ADAMS: No, I am not saying that. As a matter of fact, most of the trade unions which carry on and have collective agreements and which have never been to the Labour Board for certification are real trade unions with a much longer history of bargaining and respectability than those who have got it. That is a very general thing. I don't mean to criticize those which have got it. But in those groups, the unions which have a history of bargaining long before this statute was passed, never found it necessary to apply it. They are trade unions. But my suggestion, and I come to the point of suggesting the licensing authority, you will note that I pointed out that only genuine trade unions should be granted a license. What you call company unions, I suggest should not be allowed to operate.

THE CHAIRMAN: Article 12.

MR. MYERS: How would you determine whether a trade union was genuine or not?

MR. ADAMS: Well, I would have no difficulty in determining it for myself, and I presume that the licence authority would be given certain guideposts in



legislation as to what was a genuine union and what was not. The present Labour Relations Board applies its own standards in dealing with certification. Some unions or some applicants do not succeed in getting certified because, in the opinion of the Board, they are not genuine trade unions.

MR. MYERS: Can you give us a definition of what a genuine trade union is?

MR. ADAMS: Yes, I can.

MR. MYERS: Will you?

MR. ADAMS: The highlight of it is, it must be an organization of employees free from the domination or control of employers or employer interests to an extent which would make it a nonfit bargaining agent. Now, I don't say absolutely free because even some of our very **best** unions do have some assistance from employer relations. It is not an objectionable type of thing in some cases.

MR. MYERS: Then we have to define the pith and keep it going.

MR. ADAMS: Generally, it must be a free institution. But a large and powerful union can accept their employers' money for such things as helping them to make a float in the Labour Day parade, paying travelling expenses for organization committees...

MR. MACDONALD: Do you agree with check-off?

MR. ADAMS: I am not discussing check-off.





THE CHAIRMAN: Anything else on page 4?

Page 5?

MR. MACDONALD: Out of paragraph 17, and it subsequently arises again, we get to a point which has been the subject of pretty heated discussion in this committee, and that is the key issue of whether the right of an employer extends to the point which would, in effect, destroy the original bargaining unit by bringing in new employees. I gather from your submission here that there is no doubt that they have that right.

MR. ADAMS: That is correct. As a matter of law, they have a right. I admit it is not always something you can make effective use of. But the fact is that economic conditions for quite some years have been such that few employers have attempted to resist a strike by replacing the strikers in any wholesale way.

I am merely pointing out that that does not change the right to do it any more than you have a union that has gone forty years without a strike, they have not given up the right to strike; they just have not found it necessary to use it.

MR. MACDONALD: But the point is that under the present Act, you have a fairly long procedure that you have to live up to, and having lived up to the legal requirements, the bona fide members of the union are then faced with the prospect that they will lose



their jobs and lose them forever.

MR. ADAMS: There again, if I might, there is a confused terminology creeping into this area. It is said sometimes that because this is a legal strike, and I think improperly said because what they mean is no longer a prohibited strike, that therefore they must have more right than if they had gone on strike in the absence of a statute, and that just is not so. Whatever rights the employees have while they are on strike, they don't flow from this statute. All that this statute does with relation to strikes is to say from this point of time until that point of time, you shall not strike.

MR. MACDONALD: Well, the import of your suggestions and others is conceivably this committee should give some serious thought as to what rights do exist.

MR. ADAMS: Certainly.

MR. MACDONALD: During the course of a strike.

MR. ADAMS: Certainly, you should.

MR. MACDONALD: Because it becomes clear that actually when you get to the strike period, you move into the rule of no law at all.

MR. ADAMS: No. The law is there but the Provincial Government has sadly fallen down in the enforcement of it.



MR. MACDONALD: Yes, on both sides.

MR. REAUME: What ends would you actually attain after having admitted that workers have a right to strike if you also give employers a right to employ what you refer to as scabs from the outside taking away a man's job who is out on strike? Would that not bring about a condition of hate and fight, probably throw everything upside down? I mean, I can't see the idea. What is right? What is the sense of giving employees the right to strike and then giving the employer the right of breaking up the strike?

MR. ADAMS: Because it is essential that there be a right to resist a strike, because not all strikes should be won. Not all strikes should be supported, not even by members of the union. And if I am acting for an employer who is on the right side of the argument, from my point of view, I have the right to resist that strike with every means at my disposal, including the dismissal of the strikers and the hiring of a new working force.

MR. REAUME: Well, it brings about a condition, particularly in a time when you have people unemployed, that if a strike occurs, the person who operates the firm or the company might then very easily bring in people from the outside, break up the strike, and these men who were employed there over a long period of years, feeling that that job is their property, something that





they own is gone...Now, if that does not bring on fights and trouble, I don't know what will.

MR. ADAMS: Well, Mr. Reaume, I don't want to get into a personal argument with you. But I would just make this observation, that you will never recommend effective labour legislation if you approach it from what I consider the politicians' point of view instead of the State's point of view.

MR. REAUME: Now, I don't want to argue either, and I don't want to get personal, but I want to say this: that if we approach an Act or try to amend an Act in keeping with your idea, it would throw this Province upside down. I don't know if you call yourself a Statesman or not.

MR. ADAMS: Well, I am not seeking office nor votes.

MR. REAUME: But you are --

MR. ADAMS: But I would venture this prediction, Mr. Reaume, that I could get more votes even from the working class with this programme than you will get with this present legislation.

MR. REAUME: Do you want to bet?

THE CHAIRMAN: Order. Let us stay out of the realm of conjecture, gentlemen, and stay on this brief.

Page 6, gentlemen? Page 7? Page 7, article 21.

MR. MACDONALD: Well, Mr. Chairman, before



we leave article 21, Mr. Adams has dealt with every section of the Act. That is his privilege. I am a little curious to know why he won't discuss section 78, because it seems to me it has very great relevance.

MR. ADAMS: Mr. MacDonald, I have not discussed every section of the Act, and perhaps there are many sections I could have made observations on. I could have, but realizing I could not expect to hold your attention for a day's time, I tried to pick out only the highlights. Section 78 deals with an issue of which I have no particular views one way or the other. I realize it is a problem for you and I deliberately put forth no views.

MR. MACDONALD: My question is, Mr. Adams, you laid down this useful brief, if for nothing more than to provoke our thinking, and as a guide you have laid down certain principles, one of which is a strike for recognition of a union.

Now, agreed, you have an increasingly broadening scope in which strikes become the only way that you can get recognition, because in effect, the Section of the Act denies them the right to collective bargaining, and even denies them the right to join a union of their choice.

MR. ADAMS: Section 78, that is the section dealing with municipalities...

MR. MACDONALD: Yes.



MR. ADAMS: As I understand, when a municipality decides the Act does not apply to their employees, those employees are as free to strike then as if the statute had not been passed. They are not denied collective bargaining, but they are denied any assistance from the Act. They are back in the area that all unions were before this statute was passed. Some unions want to have the certification channels made available to them, some do not.

THE CHAIRMAN: Anything else, gentlemen?

MR. YAREMKO: Mr. Adams, are you suggesting that the standards in No. 20 would be the standards by which your superman administrator would go about it?

MR. ADAMS: I would hope so, yes.

MR. YAREMKO: Then you are substituting his judgment for, for example, No. 4:

"The gains which would accrue from successful  
"strike action must be sufficient to outweigh  
"the loss or damage caused by the strike  
"action".

You would be substituting his judgment for the judgment of the ---

MR. ADAMS: No, no. No. I am not suggesting that he would refuse people the right to strike. I think I have fairly clearly indicated that a group of employees acting through a union who desires to strike would have to satisfy the administrator that they have





principally exhausted all other reasonable means of redress.

MR. YAREMKO: Those are the standards by which they --

MR. ADAMS: These are the standards which are applicable to the conscience of the people who decide to go on strike, and some of them can be applied by the administrator. Perhaps I was wrong in saying that all could, because naturally, he can't decide whether the particular wage increase demanded is one which they should abandon or pursue. That is for them to decide after -- but then I do qualify that, too, by saying in particular cases, for example, if the waterworks' employees of a large city decided to go on strike, I don't think they should be permitted to go on strike any more than you would permit the fire force to go on strike, because it seems to me absurd to prohibit strikes of firemen and then permit the waterworks' employees to go on strike. There are some things in the public interest which must not take place.

MR. MACDONALD: If I understand Mr. Yaremko's question correctly, the problem is you are allocating to this one man, this administrator, in many instances a problem of judgment which would require him to be not only a Solomon, to begin with, but to have a man closer to Leslie M. Frost and MacKenzie King rolled into one, because he is the man to make the judgment.



MR. ADAMS: Well, I am not afraid to find such people to administer this Act.

MR. MACDONALD: Yes, but if you leave that degree of final authority with one man, I think the concept of our present Board, if you are going to have that degree of authority, it would be better to have the Board which would be a collective decision, because we don't come across this Solomon and this skilled politician as readily as all that.

MR. ADAMS: You just have not been looking in the right places.

THE CHAIRMAN: Gentlemen, is there anything further on page 7? Page 8? Page 9?

MR. MACDONALD: Growing out of paragraph 28, then, Mr. Adams, what is your reaction to a proposal that you do not deal with explicitly, and that is the suggestion made many times to this committee, that there should be a sort of time limit on the whole collective bargaining procedure?

MR. ADAMS: The conciliation procedure.

MR. MACDONALD: Yes.

MR. ADAMS: I am suggesting that in each particular application the administrator impose a time limit which to him seems appropriate for that dispute, instead of having one statutory time limit apply to all. Some disputes, you see --

MR. MACDONALD: With an over-all time limit



for the various forms?

MR. ADAMS: No, no over-all time limit. I leave it to his discretion to say how long you must spend on this particular mode of conciliation I have directed you to take up. At the end of that time, you come back to him and you renew your application.

MR. MACDONALD: I am tempted to ask, whom he thinks can do this job -- this superman...

MR. REAUME: Krushev.

MR. MACDONALD: He would have to be. That is the point.

MR. REAUME: He would be idea for that job.

THE CHAIRMAN: Anything else, gentlemen, on page 9? "Strikes during the term of a collective agreement", page 10. Page 11. Page 12.

Now we come to what I think you refer to as the second part of your brief, Mr. Adams.

MR. ADAMS: Yes, No. 36.

THE CHAIRMAN: "Control of unions by licensing arrangements."

MR. YAREMKO: Mr. Adams, in 36 (e), are the unions handicapped in any way now in their ability to hold property? And is it a handicap to them not to be able to sue?

MR. ADAMS: I would assume that it is. It is a handicap which they are not complaining about very loudly because they realize the concomitant would





be that they would be liable.

MR. YAREMKO: Yes. I have never heard of any union being handicapped by an inability to own or hold property. There are ways and means in which they can very completely and very successfully own everything that they want to, millions of dollars worth of property.

MR. ADAMS: Well, in Ontario, they no doubt create considerable trafficking in illegal offices by extra precautions that they must take in order to acquire property, the creation of trustees and that sort of thing. But they don't have that handicap in other jurisdictions, generally; they can hold property in their own name.

MR. MACDONALD: You want to relieve them of the burden of not being able to sue so that you can impose the burden that they can be sued, I take it?

MR. ADAMS: I want to apply the latter the way it should be applied, whether it hurts them or it helps them. In my opinion, it would help them more than hurt them.

MR. MACDONALD: They would no doubt disagree.

MR. ADAMS: No doubt certain union spokesmen would disagree violently.

MR. MACDONALD: The union movement as a whole has expressed itself very much on this point, and very forcefully.



THE CHAIRMAN: Page 13, gentlemen.

MR. MACDONALD: Mr. Chairman, I am back to the administrator, but I am just sort of appalled at this proposition in paragraph 40, that "the legislation should provide that no person may initiate a strike or lock-out without the prior approval of the Administrator of the Act".

THE CHAIRMAN: Well, you have already expressed your appal on many occasions.

MR. MACDONALD: I have. Within the context of this statement I re-express it.

MR. YAREMKO: Mr. Adams, why is there a necessity for an Administrator of the Act? Could not your proposition be carried out in legislation without actually having an Administrator?

MR. ADAMS: Well, when I use the expression--

MR. YAREMKO: I mean, supposing the Administrator made a decision and his decision was not carried out, would it be any different from certain situations now where by law, for example, the law forbids a wildcat strike?

MR. ADAMS: Yes.

MR. YAREMKO: Would it be any different -- would a wildcat strike be any different from a strike in contravention of your Administrator's order?

MR. ADAMS: Yes. You see, under my proposals, if the union should engage in a wildcat



strike, without having secured permission to do so, they would make their union liable, to use this license, and that would be quite a serious matter, and under the present arrangement, this Administrator that Mr. MacDonald thinks could not do this sort of thing, he is now asked to declare that what they have done is unlawful, a sort of amby-pamby type of enforcement. Usually he does not get his declaration made until somebody else has succeeded in persuading him to put an end to the strike. He hasn't time.

MR. MACDONALD: Mr. Adams, I may be wrong here, but I see an inconsistency in your own case. A little later here you do a rather devastating job on the present procedures of the Act, whereby, what you call an investigator, can be sent in. Now, this investigator will be sent in and he will have unqualified power, and that is what you are decrying. Here you are saying to put an Administrator over the whole Act who would have power almost tantamount to that investigator's power.

MR. ADAMS: Yes. I have realized I have given the Administrator much greater power than he now has, but he would be exercising it in a public manner and be responsible; because that suggestion where the conciliation officer goes out and somewhat secretly persuades the employee to withdraw his complaint or the employer to rectify his situation.





THE CHAIRMAN: Well, part of his job is to go to both sides confidentially, is it not?

MR. ADAMS: Well, this present statute seems to indicate that when an offence has been committed, that it is proper to send out a man to see if he can persuade the men to withdraw the complaints, or alternatively, to persuade the complainant to withdraw the complaint, and the unions are just as dissatisfied with those complaints as I am with the ones where the employers are persuaded to rectify the situation.

MR. MACDONALD: What would your objection be to giving the powers that you want to give to an Administrator, one man - give them, say, to a body comparable to our present Board which at least would have a collective judgment and represent the various parties in a dispute, so it could conceivably come up with something that would be closer to natural justice.

MR. ADAMS: Well, my proposal for abolishing the tripartite tribunal are separate and apart from anything else I have suggested. I have referred deliberately to the Administrator throughout here, leaving it to the legislation to decide who the Administrator will be. I would prefer that there be no tripartite administration, but the other amendment of the continuation of the Board would at least be an improvement over the present set-up.



I fail to see why in this area of labour relations we must always be wedded to the idea that there has to be a sort of negotiated decision, a decision based on compromise and mutual accommodation.

MR. MACDONALD: Isn't that the reason that has come up, is that it is impossible to lay down laws to anticipate every set of circumstances, and therefore, you must have human judgment coming in to interpret the law in light of the particular circumstances that have come before them.

MR. ADAMS: No, I don't think that is the reason.

MR. WREN: Do you hold the view, Mr. Adams, that complaints are better settled in court than by mutual compromises?

MR. ADAMS: No. I have no objection to an investigating officer. What I object to, is the power given to him, the instructions given to him by the statute to settle the matter. Good heavens, if an employer has committed a serious offence of dismissing its employee because he joined the union, why should it be settled behind doors?

MR. MACDONALD: Do you think it is better to extract a pound of flesh **than** to get the employee back to work?

MR. ADAMS: I think it is better to find out whether the offence was committed, and if it was committed



to impose the appropriate penalties.

THE CHAIRMAN: Page 15, gentlemen? Page 16?  
Page 17?

MR. WREN: A point of interest there, Mr. Chairman, in paragraph 47, the witness suggests breaking down the area administration board;. Could you give me some more reasons why you think there should be -- why the Board should function in other places than the central office in Toronto?

MR. ADAMS: Yes. You see, we have a Circuit Court System in this Province. We bring justice to the community. But in this area we say, 'If you want relief, come to Toronto, even though you may be working in Kenora or the wilds of the north to Kapuskasing and places like this.

I will grant you, if you did have it in Sudbury and Fort William, it would still be a tremendous distance to travel, but I see no reason why this Government should be so penurious about administering this Act.

MR. WREN: I see the validity in your suggestion, but I am just wondering what -- I would submit there would be very little to do most of the year in some of these places.

THE CHAIRMAN: I think the idea is they would go out from Toronto rather than appoint them in different localities.



MR. ADAMS: I don't think we contemplate a resident commissioner, but that there should be a staff of commissioners who could get on an aeroplane and fly up there and look after the matter and get back instead of keeping them waiting for weeks and weeks.

THE CHAIRMAN: The same as the Highway Transport Board is doing now?

MR. ADAMS: Yes.

MR. WREN: Yes.

MR. MACDONALD: Are you going to have the powers of the Administrator delegated so that he will be able to move about the Province and exercise his judgment?

MR. ADAMS: I suggest that each of the commissioners -- I don't know precisely how many it would take, experience will determine that -- each of them have these powers.

MR. MACDONALD: The commissioners are the people acting on behalf of the administrator?

MR. ADAMS: Yes. Well, I suggested, I think, that there be a chief commissioner and as many additional commissioners as are necessary.

MR. YAREMKO: You are setting out a system --

MR. ADAMS: Circuit court.

MR. YAREMKO: An administrative tribunal of circuit judges?





MR. ADAMS: Yes.

MR. METZLER: Mr. Chairman, I may 'make one observation on this situation; namely, the Labour Relations Board does move out of Toronto. It has sat at Ottawa; it has sat at Sudbury; it has sat in Windsor, Cornwall, Peterborough - various locations, according to the exigencies and the importance of the matters involved.

MR. MACDONALD: It is a case of just being more expensive.

MR. METZLER: Well, it is difficult for the members to move, because they have five members and a couple of staff members that they have to take with them.

MR. YAREMKO: Which actually does validate Mr. Adams' suggestion.

MR. METZLER: While the case may be heard in Toronto, if it becomes necessary to get factual information in any case, they will appoint an Examiner; and send an Examiner out to get the information, and he comes back and makes a report which is released to the parties and an argument can proceed on that report before some future hearing before the Board.

MR. ADAMS: Well, I may say, that is a most unsatisfactory procedure, the sending out of an Examiner, because he does not make any findings of facts; he simply takes a resume of what everybody says



and sends it to the Board on the basis of his opinion.

MR. MACDONALD: But your proposal would be for an over-all commissioner with sub-commissioners to go out and to not only get the facts, but render a judgment.

MR. ADAMS: That is correct. You see, ninety per cent, I think, of the Board's traffic does not require a five-man tribunal. It is true that they have important cases, but there is a great deal of stuff going by the Board that it is just silly to have five men sitting there on it -- such as routine applications for certification.

MR. MACDONALD: Is that not the reason why they have split the Board into two groups that can now operate as entities?

THE CHAIRMAN: One of the reasons. The other is the overload of work.

MR. METZLER: Mr. Adams refers to routine applications for certification. They may be routine as far as the particular trade union is concerned, but they are not routine to the employer in the sense that it is being brought within the ambit of collective bargaining for the first time, and whether the man has five employees or five hundred, he has to have the same treatment and the same opportunity to present his position and to consider his position. Because if



you say collective bargaining has a devastating effect on a very large employer, is there any reason for saying it would not have a devastating effect on a small employer. You cannot simply put it down to a routine matter.

THE CHAIRMAN: Would not your suggestion of an Examiner going out be cured if a Reporter went out with him and took down the proceedings which would form part of the Examiner's report to the Board?

MR. METZLER: Wait a minute, Mr. Chairman. That is a fair question, but I want to make one observation in connection with it. It may be there have been allegations in an important case that a person has or has not paid the dollar prescribed by the rules of the Board, and therefore, the validity or the right of the union to maintain its application has not been affected.

Now, there may be two or three people in the plant who have been involved, but the Examiner will talk to twenty, and nobody, either the employer or the trade union, will guess who those three people are, because it is not the intention to let him have that knowledge.

THE CHAIRMAN: Anything else on page 17, gentlemen? Page 18 - "Appeals". Page 19, "Minimum contents of collective agreements." Page 20. Any further questions, gentlemen?





Mr. Adams, may I, as chairman of the committee, extend to you the committee's sincere thanks for the brief that you have presented and your interesting recommendations. It will receive our very careful consideration.

MR. ADAMS: Thank you.

THE CHAIRMAN: Now, this afternoon we are to hear from Mr. E. Macaulay Dillon. Are you ready to proceed now, Mr. Dillon? We can hear you for twenty-five minutes.

MR. DILLON: If you care to, I will be very happy to.

MR. METZLER: Mr. Chairman, can I take one minutes...You remember we referred to this Trade Unions Act of 1906. I have two sentences in Mews Digest of English Cash Law to 1924, Volume 19, at page 1307:

"Action of tort against union - liability  
"of the union. Section 4 of the Trade  
"Disputes Act 1906 is general in its  
"application, and protects a trade union  
"against any action of tort, and is not  
"limited to a tortious act arising out of  
"a trade dispute. Therefore, an action  
"for malicious prosecution will not lie  
"against a trade union. An action will



"lie against a member or official of  
"a trade union for a tort committed  
"by him without acting on behalf of  
"himself and all other members of the  
"union, Section 4 only preventing him  
"from being so sued as to render the  
"trade union as such and its funds  
"liable for the tortious act".

THE CHAIRMAN: Thank you, Mr. Metzler.

MR. YAREMKO: Section 9 of the Act of  
1871 prevents damages in respect of break of  
agreements?

MR. METZLER: That is right.

THE CHAIRMAN: Thank you very much, Mr.  
Adams.

Gentlemen, this submission is from Mr. E.  
Macaulay Dillon, Q.C. You have been before us on a  
previous occasion, Mr. Dillon?

MR. DILLON: Yes.

THE CHAIRMAN: You know the manner in which  
we proceed.

MR. DILLON: Yes.

-- (Brief read by Mr. Dillon)

THE CHAIRMAN: Thank you very much, Mr.  
Dillon.

Gentlemen, it is now one o'clock. I presume



that we will want to discuss this matter with Mr. Dillon. Will it suit your convenience to return at two o'clock, Mr. Dillon?

MR. DILLON: I was planning to be here at two, Mr. Chairman.

THE CHAIRMAN: Thank you very much. The committee stands adjourned until two o'clock sharp.

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-- Whereupon the committee adjourned at 1:00 o'clock until 2:00 in the afternoon.

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( Page 3365 follows )



--- On Resuming at 2 O'clock

THE CHAIRMAN: Gentlemen, I see a quorum. Now then, Mr. Dillon's brief, which he completed reading prior to the adjournment. Are there any questions arising out of page 1 of the brief?

MR. MYERS: I would like to ask Mr. Dillon what experience he has had in labour matters, as he sat on conciliation boards and he acted as counsel in conciliation matters, because I think we ought to have the background of his recommendations.

THE CHAIRMAN: I think paragraph 4 of his brief explains that, Mr. Myers, which Mr. Dillon was too modest to read.

MR. WALSH: I would like to ask one question. Who is that man from Montreal, that professor, the academic man from Montreal, that said they ought to abolish conciliation boards?

THE CHAIRMAN: That was Professor Woods.

MR. WALSH: He said they ought to have the right to strike in 90 days.

MR. DILLON: All I can say is I think I have been a member of twenty conciliation boards in 1957. I think I acted in negotiation proceedings, some of which resulted in conciliation. Some conciliation processes are not yet completed, but I think I was counsel for companies in about ten. Does that help





you, Mr. Myers?

MR. MYERS: Yes.

MR. WALSH: What about the 90 days that this professor in Montreal said? He did not go into the practical aspect of it. He was just giving the theory. What do you say?

MR. DILLON: What precisely did he say?

MR. WALSH: He said either have a board or a conciliator, and at the end of 90 days labour ought to be in a position to exercise their economic right.

THE CHAIRMAN: No matter what happens, the procedure should not extend beyond 90 days, and at that time either a strike would be called or a lock-out order.

MR. DILLON: I do not agree with any absolute limit in spite of the fact that it might appear, in some cases, to be advisable. I say that for this reason: I have seen too many unions and too many employers over a lapse of time change their initial views, and always if there is no change, you have no conflict in the end. I think it would be a very dangerous thing to say 90 days, and that is the end of it.

Now, everybody seems to overlook the fact that under the present legislation, as I mentioned in the brief, if the parties do not want to

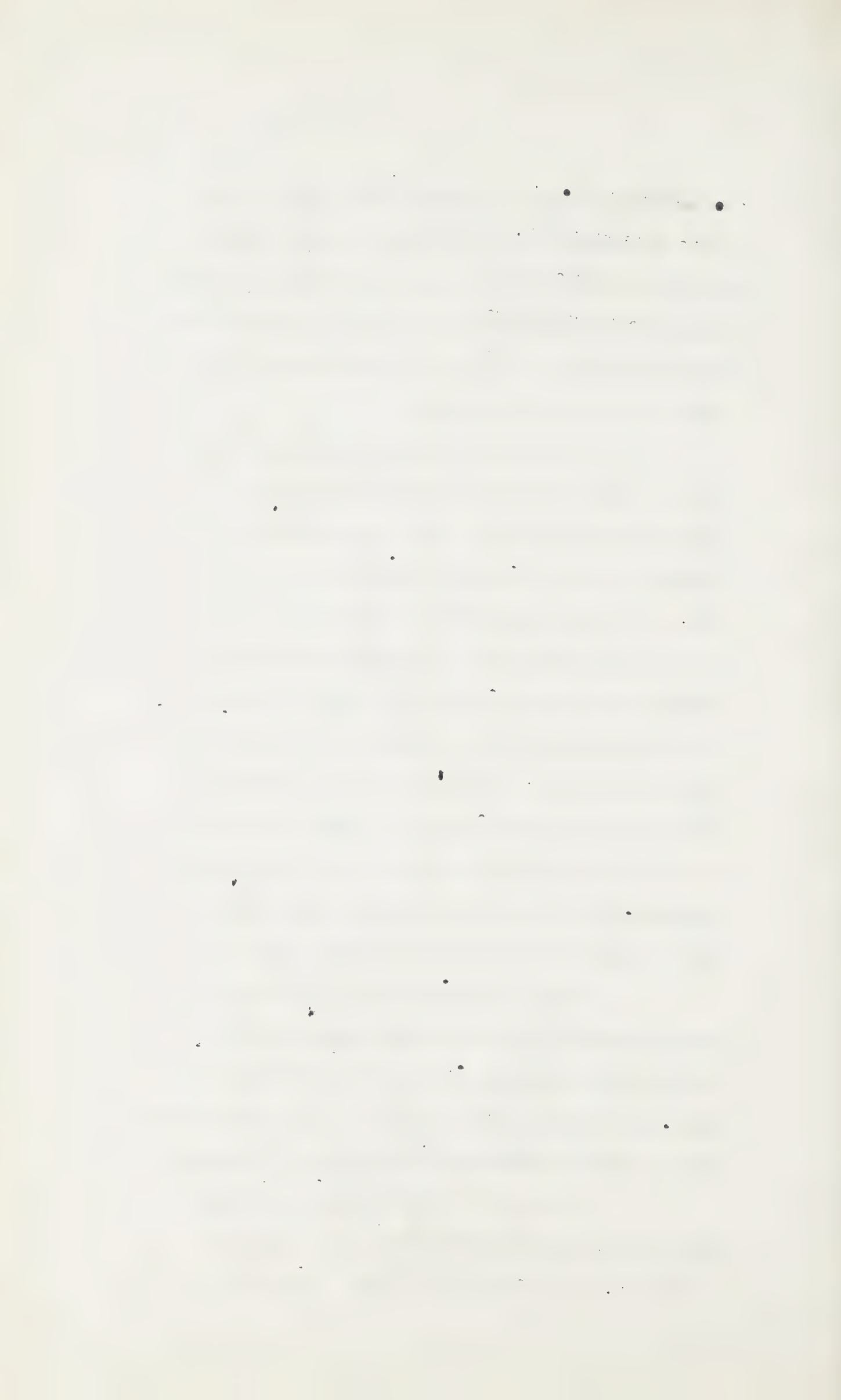


go on beyond these statutory limits, they do not have to consent to it. And for the same reason I am not in favour of abolishing conciliation so that when the contract expired you have a no strike, no work situation for exactly the same reason. I am opposed to an arbitrary limit.

I am not, in that, trying to justify, and you cannot in this field make very many general statements which have any degree of accuracy because there are exceptions to all of them. They are innumerable. There could well be some situations where it would be better to cut the throat at the end of "X" days -- whether 90 is the number or not -- but in my view there are very few of them. As long as you have limits in the Statute, if either party -- either the company or the union -- did not want to have those limits extended for the board to function, they do not have to agree to it, and no court can carry on.

Now, I must also say I never knew an instance in all my experience in which the parties did not agree, and when they did agree they were both hopeful, or at least had some anticipation that a further extension would produce a contract.

As far as I am concerned, the slap-happy union that wants to strike just does not exist. You very seldom find them. They will all



prefer to get an agreement if they can, and I have not very much patience, to be frank, with this complaint about delay.

It seems to me, as I said in this brief, and I would like to repeat it, delay is not in itself a bad thing for the community and for the people themselves. The parties. I would hesitate, myself, to leave either the employer or the union in the position where the day the contract expired they could fire the first gun.

Now we are all too prone to think about the union as the one that is suffering from delay. It is perfectly true that over the past years the union has been making the demands, most of which would cost the employer money, and consequently the employer -- some of them; not all of them -- will take advantage of the delays inherent in the procedure to postpone the inevitable day of reckoning.

On the other hand, if we have an economic climate that is only partially reversed and the employer is in a position to get some amelioration of the expensive proceedings in these contracts, such as seniority and things of that kind -- I am not decrying seniority now, but its application of the case -- it will be the union that will want delay. And it won't have to





be a complete reversal of the present climate to have that happen.

There is an illustration of it: Nobody has heard of lock-out for years until the building people did it in Hamilton. I don't know any of the details of it, except what I saw in the papers, and what they said was the manufacturer said, "O.K., you take this deal by such and such a date or you don't work." They didn't take it, and they didn't work. This is a complete reversal of what we have been used to.

MR. MacDONALD: There are a couple questions I would like to ask. It seems to me the essential difference in your approach and that of Professor Woods was not necessarily the 90-day limit, but on this business of it being compulsory.

MR. DILLON: Quite so.

MR. MacDONALD: Although Professor Woods' contention was if it is compulsory it means both parties have to go through certain stages of conciliation that in effect take the place of collective bargaining. There is the time-consuming element on occasion when each of them sort of play it close to the chest and does not reveal now what they might reveal later, and it becomes a substitute for negotiation, and his



contention was that serves no particular purpose if you are postponing negotiations.

MR. DILLON: I do not agree with it for this reason: it is easy enough to say that if you base it on his first assumption, which is that compulsory conciliation is an inherent barrier to collective bargaining.

He makes that statement, and then he proceeds to argue from it. It is one of those general statements. I think, as I pointed out in this memorandum of mine, it is only true in a very few cases.

There are thousands of agreements effected every year in this Province in the face of compulsory conciliation, and he apparently proceeds on the assumption that delay in itself is vicious. I made it perfectly clear from my point of view that is not so. It certainly is not so from the point of view of the community.

Does that explain my position,  
Mr. MacDonald?

MR. MacDONALD: It does, except there is another aspect of the whole thing. If conciliation is compulsory and therefore they have to go through it even though both sides feel that at one or another of the stages they are going to achieve no purpose, then the delay

;

becomes not what the Act anticipated, a cooling-off period; it becomes a heating-up period, the result of which may be a worse kind of situation and a worse strike with far greater consequences in the terms of the whole community than if you had not had this protracted delay.

MR. DILLON: I would be the last to say that may not sometimes happen, but it does not happen very often in my experience. Very infrequently. To take care of an infrequent thing by abolishing the whole process and taking the compulsory aspect out of it, in my view is driving a tack with a sledge hammer. I cannot see it. That is my position about it.

MR. MacDONALD: I would like to ask you another question. It has been rather interesting having submissions of the various unions. These unions which have, as a general rule, been able to get retroactive agreements back to the date of the lapse of contract are not as disturbed about delay involved in conciliation procedure as those unions that either cannot get it or those where it is rather difficult to apply retroactive pay. For example, the union where the work sort of comes and goes, and make it retroactive six months.

Now, in your experience is this problem of retroactivity a valid point in coming to the



conclusion in regard to the function of delay or what delay may do in terms of heating up or cooling off?

MR. DILLON: No, it is not, Mr. MacDonald, for this reason: when you talk about retroactivity and in a little panel all by itself, it is not the way to talk about it. It is a part of the complete financial package, and it is almost invariably treated as such.

I will illustrate it for you. I have settled agreements, and I will use an arbitrary figure, where the board got to the position where it could be either "X" cents from now on or "Y" cents from back, with retroactivity. Sometimes you would get your agreement in between with partial retroactivity, and sometimes not. You cannot discuss retroactivity in a closed bag in relation to the effect of delay.

It is true that if you are dealing with conciliation three months after the contract has expired, it is true that retroactivity then becomes part of the package. It is common and customary and goes on all the time. The employer will look at the package, and this has happened that in some cases the union would say, "Well, O.K., we would sooner have 10 cents starting now on the wage scale so we are that far up the next time than





8 cents now on the wage scale and some retroactive pay<sup>11</sup>.

You cannot make a general statement. The only general statement I want to make about it is that both parties should have plenty of time to assess their position and change it from time to time and that conciliation boards in my experience help them to do so.

MR. MacDONALD: Well, I recognize the logic of your argument that in many instances retroactive pay will become part and parcel of the whole package to be negotiated, but I do not think it necessarily rules out the other argument that if a union knows the old contract in effect is going to continue for the period until the new one comes -- no, I am sorry -- if the union knows any new negotiation is going to go back to the lapse of the old contract, then there is not the tension involved in saying if I delay for 4 months, or 6 or 8 months, I am not losing something.

MR. DILLON: Quite so, Mr. MacDonald, but you see that is so general. I do not mind telling you in three cases last year, in 1957, which I was acting for the company, in one case for the union's own convenience, in another case for my convenience, and in a third case, for the convenience of the company, negotiations did not get started as soon



as they might otherwise have, and the company simply said to the union, "Well, O.K., whatever you get, you get back to the 1st of April", or whatever the date was, and we had no problem. That happens more often than you might think.

MR. MacDONALD: It does not happen in the automobile industry, for a good example.

MR. DILLON: I do not know anything about the automobile industry.

MR. MacDONALD: I think you do.

MR. DILLON: I have never acted for any individual automobile company, and I know nothing more about it than appears in the paper.

MR. MacDONALD: The fact is it has never happened in the automobile industry, and they clearly say they won't entertain it.

MR. DILLON: The union is not under any misapprehension about it.

MR. MacDONALD: Not being under any misapprehension, then the situation is very clear. For the longer the delay the greater the tension and more of a heating-up period rather than cooling-off, and all the rest of it.

MR. DILLON: Now then, Mr. MacDonald, it comes down to that: whether the tension is heated up or whether it is cooled down depends on the objectives, the techniques of the union officers in



charge. It can be either one most times, whichever they elect, and the occasions in which the employees heat themselves up against the wishes of the officers in charge are few and far between.

THE CHAIRMAN: Anything else on page 1, gentlemen?

MR. WREN: Do you feel then that anything short of cold war is desirable?

MR. DILLON: I do.

THE CHAIRMAN: Page 2. We have covered most of this. Page 3, changes which might be considered.

MR. WREN: We had an instance the other day -- I think it was International Nickel that raised the point, where notice is given to renew or extend the contract in a 60-day period, and that comes about simultaneously with the so-called open season. Have you any experience of that happening? Where the employer is negotiating with the existing bargaining unit and simultaneously the other union is in the process of securing representation to vote to displace the present one. Have you ever had that happen?

MR. DILLON: I think only on one occasion, Mr. Wren, and a long while ago. I was on a board where that was happening, and what the board did was simply adjourn its proceedings until it was decided who was going to appear before them.

MR. WREN: Do you think any legislative changes might be necessary to overcome that or prevent that situation





happening?

MR. DILLON: Well, of course, when you start with a minimum term of a year, which the Statute has, and tenth to twelfth month open season for other unions to come in, I think it would be impossible to avoid it sometimes happening that you had negotiations going on in the same two months.

Now, the present Statute permits people to make demands for changes up to the last day of the contract. My feeling about it, and I have set it out in this fbrief, is that those termination clauses and notice clauses might well be obligatory for the purpose of shortening the conciliation process.

If either the unions or employers had to make their demands for changes not less than 60 days before the contract expired, you would have to have a previous date, and I have suggested not more than 90.

MR. WREN: Yes. Well, I see the logic of your suggestion. What disturbs me is this. Let us suppose the bargaining unit have given 7 days' notice they are going to ask for A, B, C and D demands under the agreement. Wouldn't it produce, or would there not be the possibility that "X" union might produce unrealistic demands to gain control of the bargaining unit? In other words, might they not put up an internal political platform to try and get the other union out, and their platform might be a bit irresistible.

MR. DILLON: That is quite so, but --



MR. WREN: Well, supposing --

MR. DILLON: Wait a minute. I am quite sure it has happened, but not within my personal experience. Surely we have to give notice, some kind of notice for a change before the contract expires. We all agree on that. All right. So if you have a minimum term of 12 months for a collective agreement, and you want to keep an open season, which the present Statute defines as the last two months of a 12-month term, if you want both those things, then it is impossible to avoid the possibility of the existing bargaining agent making demands during the same period that another bargaining agency,, which hopes to get in there, is campaigning. You cannot reconcile the two necessities.

MR. WREN: In your experience do you think it would help any if it were common to have contracts extend over two years instead of one year?

MR. DILLON: I don't think it would help, sir, for this reason: while it might eliminate successful efforts of the outside union becoming the inside union, and that is to say, take away one trial at the end of 12 months, you have still the same problem at the end of two years.

MR. WREN: Yes.

MR. DILLON: It does not seem to me that we need any change in relation to the terms that the contract runs.



MR. WREN: You think it would more or less be the practice, as far as management is concerned where they knew or had good reason to believe another union was going to attempt to displace the incumbent, they might wait until they saw how that vote turned out before they got down to serious bargaining?

MR. DILLON: I think that would happen invariably.

MR. WREN: That is what bothers me about it.

MR. DILLON: What I am saying, Mr. Wren, I do not see how you can avoid it as long as you say notice for new terms must be given before the old contract expires. It does not matter what the time is. And in the same breath say there must be an open period for outside unions to come in in the last two months.

MR. WREN: It creates a lot of confusion I think. I realize it does not happen very often. It could create a lot of confusion in the man who has to vote maybe on a strike vote at the same time representation was going on. It would be a bit confusing.

MR. DILLON: I think that is true, but I think it is inherent in the situation, and I am the last person to endeavour to regulate what the unions do in their own concern. I am only interested in what they do when they affect other people.

MR. WREN: I was wondering if it is the recommendation that this notice might be extended to 90 days, if that is --



MR. DILLON: Frankly I think it would help, Mr. Wren, because you see what I have said is that these new demands must be in before the last two months begin so you would have the demands, and then if you had an application --

MR. WREN: Yes, but the point I was raising, supposing we accepted your recommendation and extended that period to 90 days, and on the 85th day "X" union, knowing that "Y" union is attempting to displace them, might submit to them a set of potential conditions which are submitted -- well knowing management won't accept them -- only for the purpose of influencing the employees to vote the other union out.

MR. DILLON: Yes, it could happen.

MR. MacDONALD: It is the inevitable part of the democratic process. Political partners are often accused of trying to outbid the other. It is up to the electors to choose who outbid the other.

MR. WREN: What I am concerned about is keeping business functioning while the union and management make up their minds what to do.

MR. DILLON: I don't see how you can do it by legislation, because no employer in his right senses faced with that situation would make any kind of contract with any union until he knew which one he had to deal with, and nobody could criticize him.

MR. WREN: I agree, but I do not think that is a good thing. What I am getting at, I don't think it





is a good thing in speeding up the process of collective bargaining, getting these things settled.

MR. DILLON: It is one of the impedimenta you have.

MR. WREN: I have no answer to it. I am seeking information.

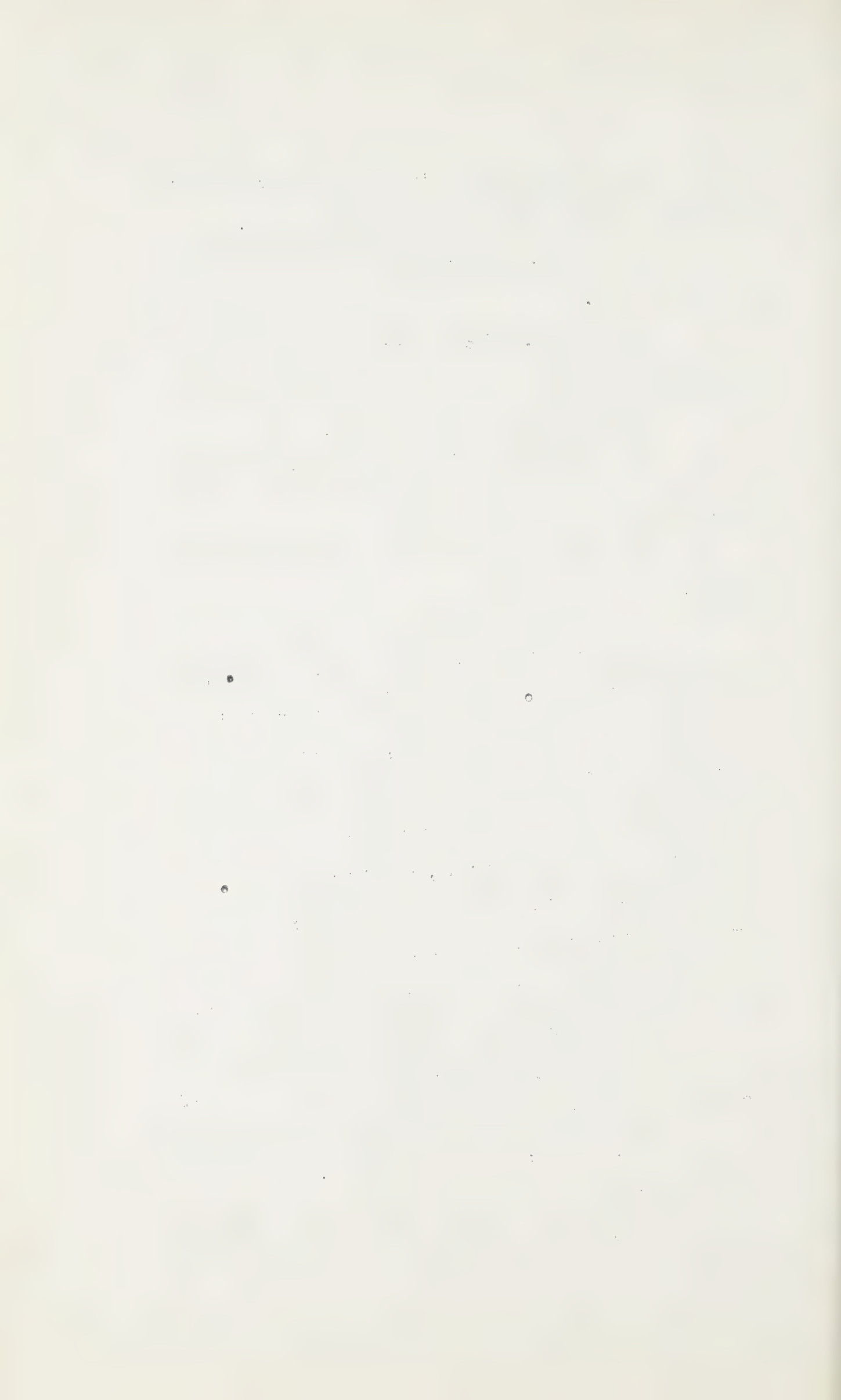
THE CHAIRMAN: Page 4.

MR. MacDONALD: One aspect of this, at the top of the page --

MR. DILLON: What is it? I have not the same paging.

MR. MacDONALD: A, B and C. Particularly B. Now, my conception of the theory of a conciliation board, or at least one of the theories, is that if it does come to a strike, one of the pressures that will help to resolve that strike is public opinion, because it is not going to be held in a vacuum, and if the value of the recommendations of the board will be to provide the general public with the basic details of the dispute so that they will be in a position to make up their minds, and therefore you will have public pressures generated in terms of public interest and public welfare for the settlement of the strike.

MR. DILLON: That is true, Mr. MacDonald, but to make it completely true, it involves publishing and making the public aware of the report of the board of conciliation, which is not done, and I think Mr. Metzler



would agree it would not in the least be practicable, and it would be too expensive.

It was because that was not done there was a time when I myself thought that conciliation boards could do something with public opinion, if the public knew about it. I don't think it is possible now.

Sometimes the parties will publish it themselves for their own end. I have no objection to that. But what troubles me about it, and I make this statement in the extreme form as I have said when I opened my remarks, what troubles me about it is after a lengthy conciliation board process, whether the parties each know their final position or whether they don't, in the end if you make recommendations you damage the bargaining power or the arsenal, if you want to call it that, of either one or sometimes of both the parties. My view is if the community has given them every opportunity to settle their dispute and they don't choose to do so, then the community -- that is the board, in my thinking -- which should not take any more sides.

Now then, I put it that way because in the present section the board shall endeavour to make settlement and make findings and recommendations.

I would be perfectly content in spite of the extreme way that I put it, if Section (a) emphasized the effort to get an agreement and left it optional to the board as to whether or not they would make findings and



recommendations.

I have seen plenty of situations, and I don't like them, where the union and the company will say to a board, "Well, we have gone too far. We have said we wouldn't do this and we wouldn't do that and we wouldn't do the other thing, but if you will report and recommend so and so, and so and so, and so and so, we will both tell you now we will do it.

So in that sense all I am asking for or suggesting is that there should be no obligation on a board to make findings and recommendations. Now, in the old 1088 days when I tried to do that as I thought it would hurt, Mr. McLean insisted. Now Mr. Metzler is not so arbitrary.

MR. MacDONALD: You have amended your position to this degree; you think it should be optional. It seems to me there is still continuing validity for it being compulsory for this reason -- your argument against it being compulsory now is that it is not published. It is published by the government.

MR. DILLON: That is not an argument. I am answering your question.

MR. MacDONALD: It is not published by the government and it is <sup>not</sup> made public in that sense, but at least you have the body of factual material with recommendations flowing from it made available by this agency which you say is representative of the public,





and then if the dispute goes on, certainly the two parties make portions of it available to the public.

MR. DILLON: Well, let me just answer you this way, Mr. MacDonald. I have been complaining about general statements in this field. Now, I am going to make one myself, but I will endeavour to suggest exceptions.

I am firmly convinced that as a general rule if a conciliation board has made a conscientious effort to settle a strike and failed, that little good and perhaps some harm -- likely some harm -- will accrue if a report is made, but there are some situations where a report could be helpful. Not very many. Now there you are.

THE CHAIRMAN: Anything else on page 4, gentlemen? Page 5.

MR. MYERS: Mr. Chairman, I would like to ask Mr. Dillon his views on things which are not set out in this brief

THE CHAIRMAN: Is there anything else in the brief, gentlemen?

MR. REAUME: The only thing I want to say about his brief is that I think it is excellent. Many good points in it. Much different from the one we had prior to noon.

MR. DILLON: Well, when I was present there were --

MR. REAUME: Both gentlemen, but I think one was --



THE CHAIRMAN: One moderate and the other radical.

MR. MacDONALD: I think you are more qualified to go into politics than he is.

MR. DILLON: I would be the last person to suggest that I do not realize that I am dealing with a committee of politicians.

MR. REAUME: Statesmen.

MR. DILLON: And the word has no disrespect in my mind.

MR. REAUME: You can put it either way because we have had it both ways.

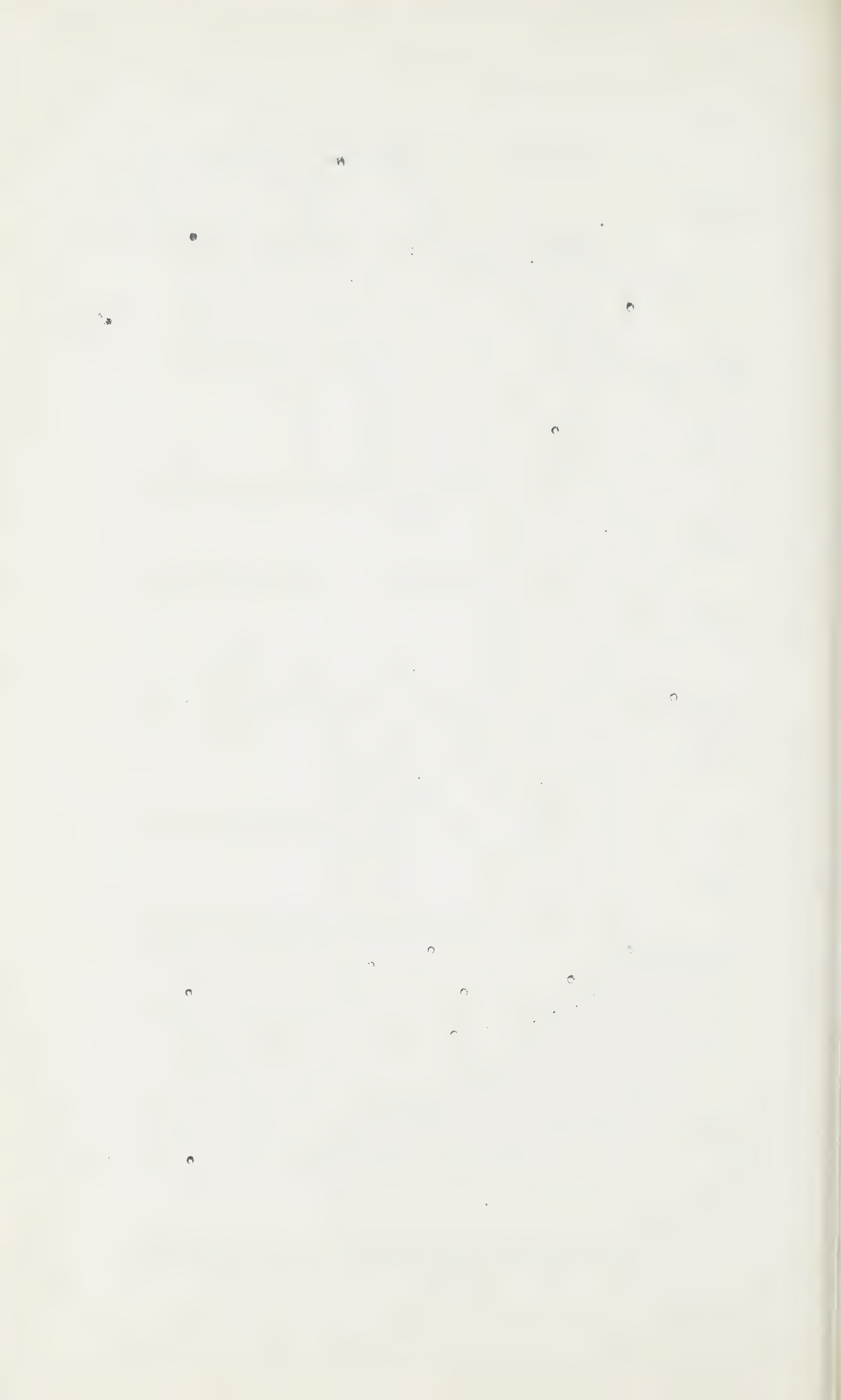
MR. DILLON: As far as I am concerned we have to have them. We cannot operate without them, and I have no patience with the attitude that says "politicians" --

MR. MacDONALD: With a snarl.

THE CHAIRMAN: The greatest profession in the world.

MR. MYERS: I wonder if you would mind giving us some observations on two points, which seem to me to be of importance. One of them is the insertion of a right to work provision in our Act. That is perhaps payment of dues, no necessity to belong to a union; and the other one is your views on whether a man who is employed in a plant, has an interest in a plant, and does he own a job in the plant.

MR. DILLON: Well, I will deal with the first



one.

MR. MYERS: Yes.

MR. DILLON: I do not believe in involuntary unionism or involuntary support of unionism because I think it is bad for the country and bad for organized labour. That is just a point of view. I do not mean by that that clients of mine have not executed contracts that contained a union shop clause. They have. They have because they thought it best to do so.

Now, I don't know that this right to work business and laws about it are perhaps the best way to deal with it. My own view is that in Canada at least the situation is not such that that kind of legislation might be justified. I have not given it any real serious thought, but if we are, in this country, in a position where it becomes a real problem, then we will have to have them if my thesis that voluntary unionism is to be preferred over involuntary unionism has any validity.

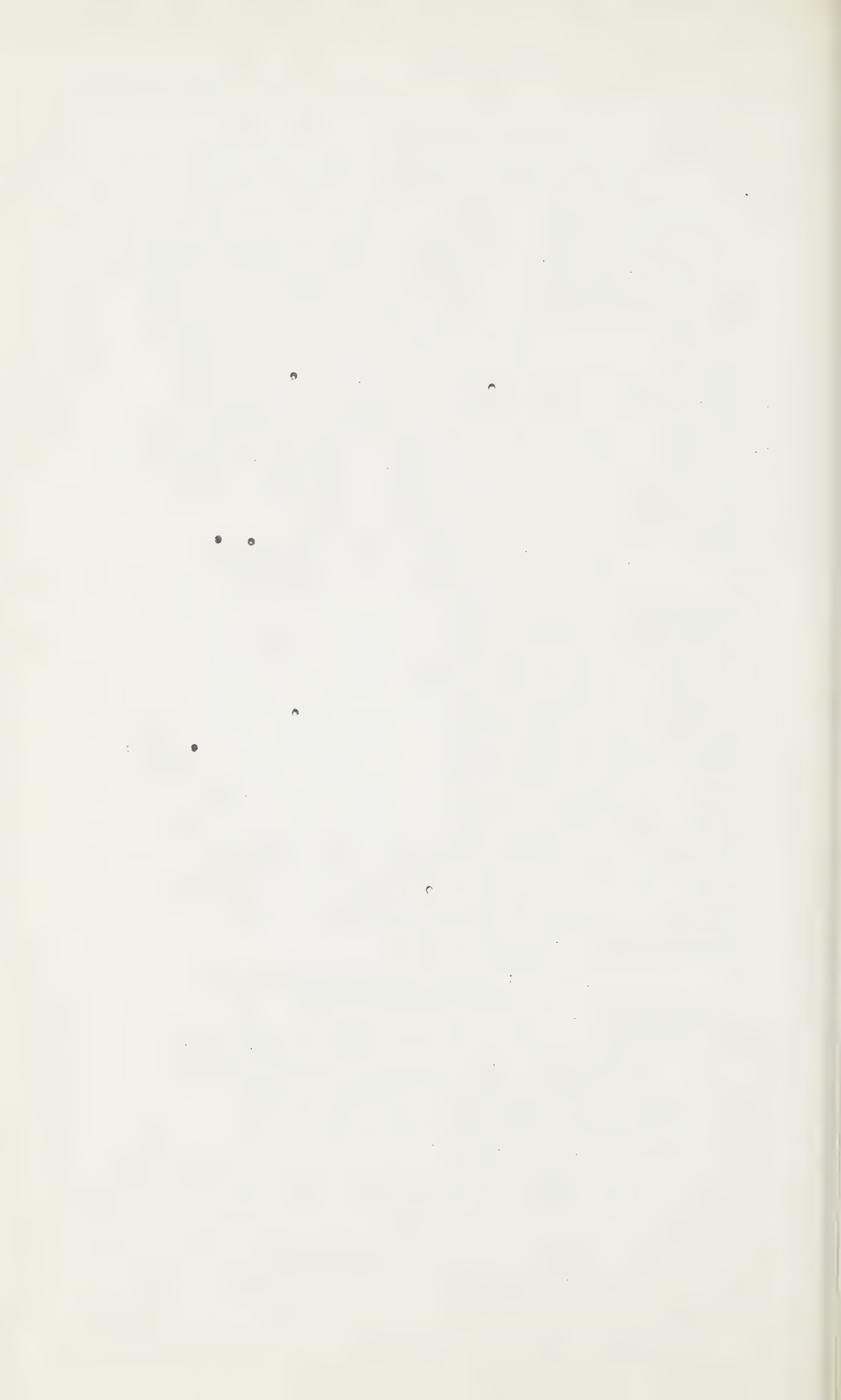
MR. MYERS: You think there should be a minimum of legislation?

MR. DILLON: At the present time. Now, the other question was about who owns a job?

MR. MYERS: Yes.

MR. DILLON: Would that be a good way to say it?

MR. MYERS: Does a man by working in a plant



for years become the owner of a job in that plant? That has been advanced quite seriously by some.

MR. MacDONALD: Or have a certain propriety right after 40 years?

MR. DILLON: Of course what you are really talking about is what the lawyers call property right in the sense, Mr. MacDonald, that you own a suit which you are wearing. You can do what you like with it.

Of course the employee has an interest in his job, which is far from saying that he owns it. Organized labour is here with us, and I hope we will never be without them to protect that interest, but you have this problem, and you will have it as long as people are people. There was a time, you know, when the employee had no right in the job whatever. His employer could kick him out or do what he liked and nobody had anything to say about it. That was the genesis of organized labour in every country where it began. That was the reason for it, and we had to have it.

Now, over the years the employee has acquired quite a lot of propriety property rights in his job. There are those who would argue, and I am not sure that I am not one of them, that the process may have gone too far.

You have in the first place such things as the pension plan which is really an extension of a property right in the job. You have all the seniority provisions

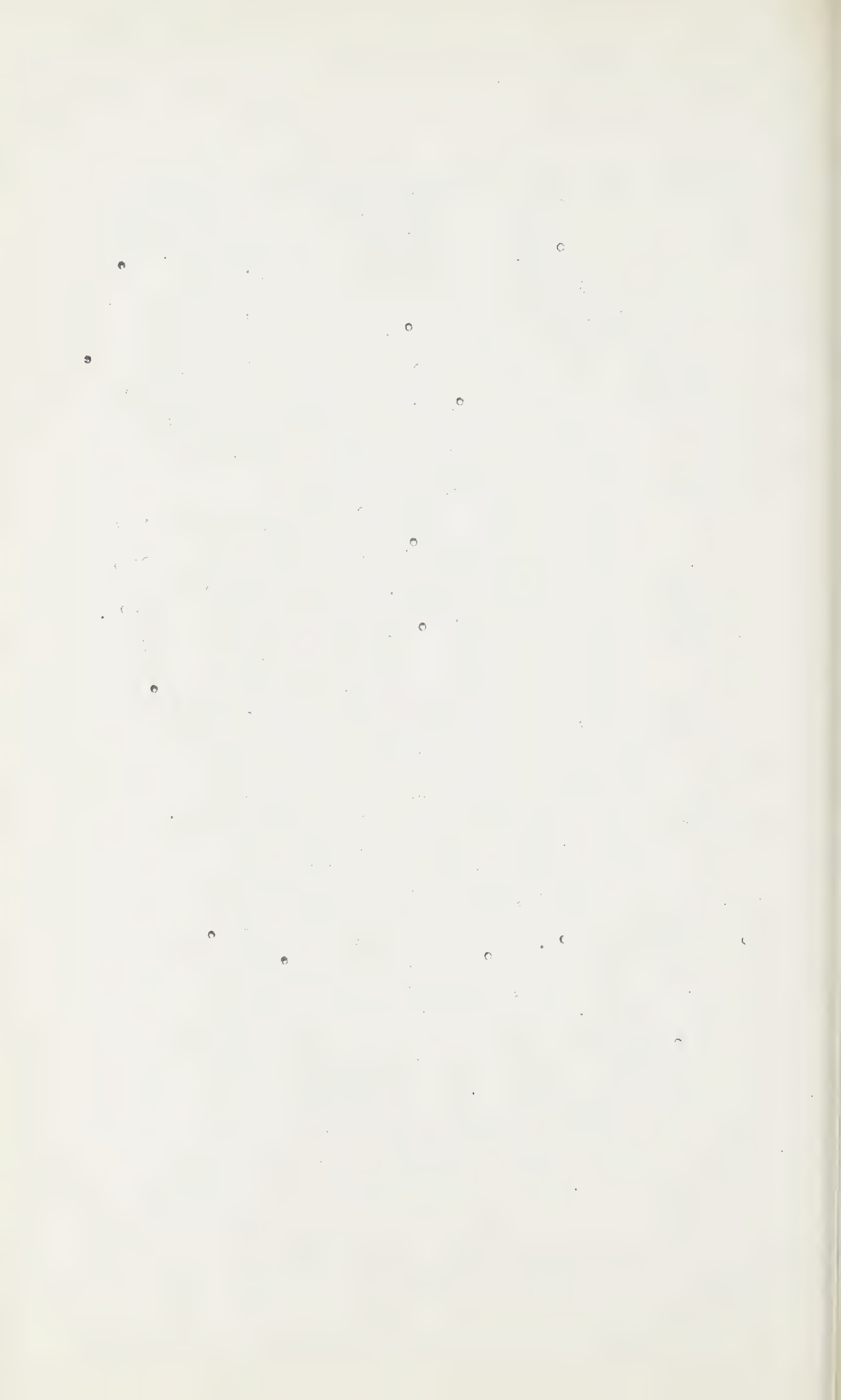




in all their wide variations which say he shall have some other job in the plant if he can't have his own. That is an extension of a property right in the job. You have provisions that inhibit the employer's right to discharge the employee. That is another accretion to the employee's property right in his job. You have the limitations on the discipline that an employer may impose. That is another addition to the employee's property right.

You have also the right of the employee, in conjunction with others, to negotiate with the employer and determine what the employer shall pay him on the job. That is a relatively new right. That is a property right too. He did not have it before. If he didn't want to take what the employer wanted to pay, he quit. Now he can make the employer keep him there and pay him the same agreed wage, so his property rights have extended.

If the papers are accurate, there is an organized labour union that is now saying, "in addition to all those rights in the job we want the employer to pay us part of the profits he makes out of not only our job, but capital too." So that it can be argued -- I am not arguing it, I am just talking -- it can be argued that the extension of the employee's property right on the job has gone too far, I am not saying so. I am saying it can be argued, and certainly I think the process is likely to continue. And remember what happens. Those rights don't come out of the air. They



come out of the employer. They are transferred from him to the employee.

MR. MYERS: They kind of confiscate --

MR. DILLON: I didn't use the word. It is a fact if you are talking about ownership between two people, ownership is an entity, and if you have some elements in this side, you can only get them by taking them out of the other side.

MR. MacDONALD: Do you agree, Mr. Dillon, that a degree of property right is a good thing for the development of a sort of stable society so that people feel they have security and a position in that society?

MR. DILLON: I will put it to you this way, Mr. MacDonald: I think it was inevitable, proper and right that some more property right in a job should come to the employee than he originally had. I think I have made it perfectly clear that it is an arguable point. You can get to the point, Mr. MacDonald, where organized labour would run it if you follow it through to its logical conclusion, and I don't think there is any thought anywhere -- at least I hope not -- in the ranks of organized labour that they ever want to do that.

MR. MacDONALD: I don't think there is even that problem that you are now proposing that they share some of the profits.

MR. DILLON: I don't hold, Mr. MacDonald, to get into the question of profit-sharing with you.



MR. MacDONALD: As a matter of fact I think you provided a great service to the Committee because when this was raised the other day in its general terms, dismissed it as being not only revolutionary but completely impractical.

MR. DILLON: We will see whether they get it or not.

MR. MacDONALD: I am talking about generally the new wrinkle in the proposition.

MR. DILLON: One would have to be blind and stupid as well not to see that over the years there has been an accretion of the rights of ownership in the job to the individual, and a decrease in those that the employer has.

MR. MacDONALD: I would agree with you completely, but would you not be both blind and stupid not to recognize this has gone on for a considerable extent?

MR. DILLON: And one of these days I will probably get in the position -- if there is another such Committee -- I will come in here and say, "It is time to stop".

MR. MYERS: You come now to the point of this Committee, Mr. Dillon. Can you think of anything that we could recommend to be incorporated in the present labour legislation dealing with the right to work and the property right of the employee in his job?





MR. DILLON: No, I don't think what I have been talking about is in the legislative field. It is in the collective bargaining field.

THE CHAIRMAN: That is right.

MR. PERKINS: I think the last time Mr. Dillon was up here there was some question in regard to --

THE CHAIRMAN: How exactly we would make a union responsible by making it legal. Alternative of corporation or suggested wording for a clause in the Labour Relations Act to achieve that purpose.

MR. DILLON: That is in the course of preparation. I undertook to give it to you, and it will come along in due course.

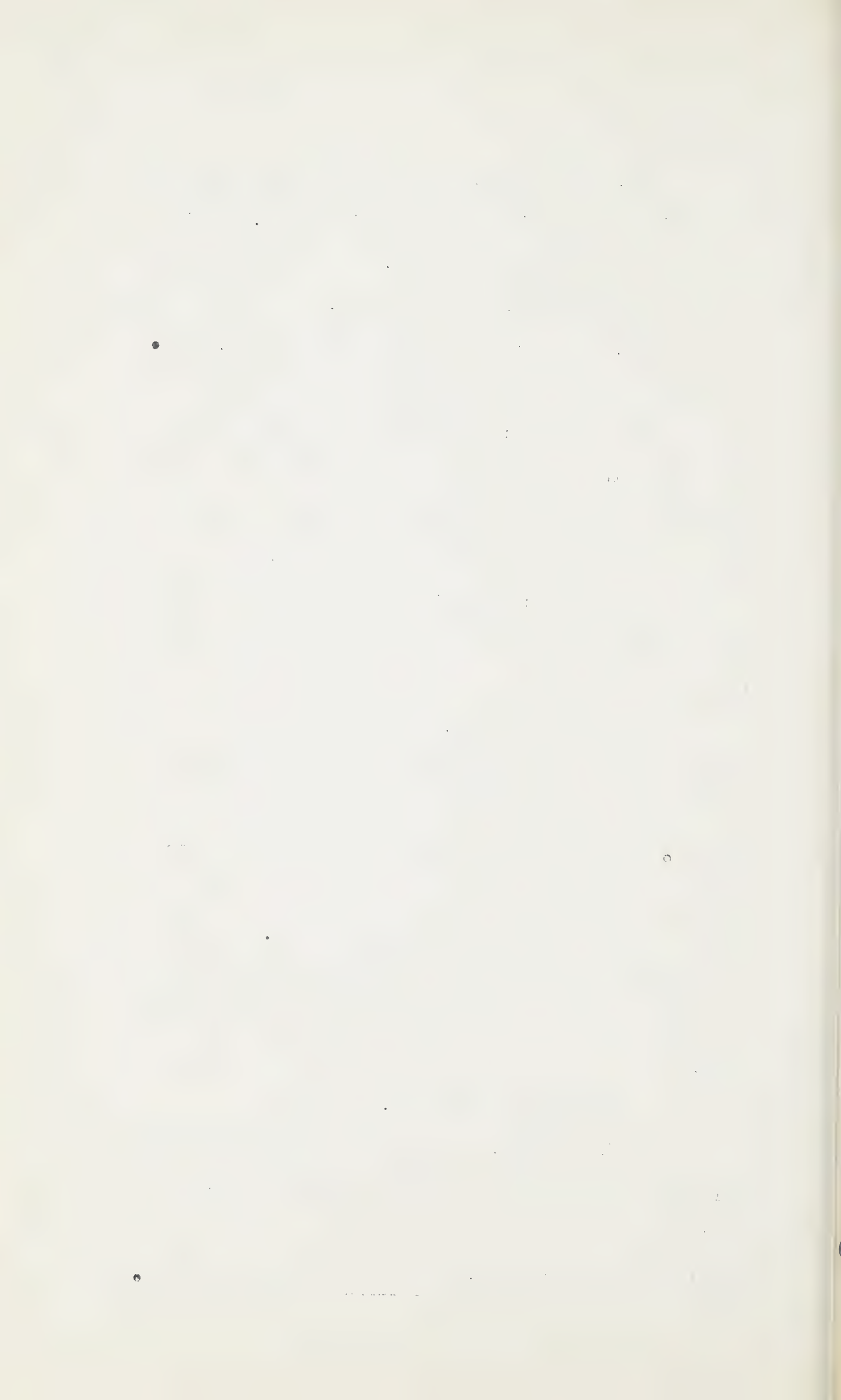
THE CHAIRMAN: Mr. Dillon, I think you can see by the attitude of the Committee that your views have made a very strong impact on the minds of the members of the Committee, and it is needless for me to tell you what you have said to us in this brief will receive our very, very careful consideration. We are very thankful to you and feel very deeply indebted that you would take time out to come here to be of assistance to us.

MR. DILLON: Thank you.

THE CHAIRMAN: Gentlemen, before we adjourn there are a few things I would like to take up with the Committee.

--- Off-record discussion.

(Page 339<sup>65</sup> follows)



## LEGISLATIVE ASSEMBLY ON ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Building,  
Queen's Park, Toronto, Ontario

Wednesday,  
January 29th, 1958.

JAMES A. MALONEY  
HAROLD PERKINS  
GEORGE T. WALSH, Q.C.

Chairman  
Secretary  
Committee Counsel

## MEMBERS

G.E. Jackson  
Donald C. MacDonald  
Ellis P. Morningstar  
Raymond M. Myers  
Arthur J. Reaume  
H. Leslie Rowntree  
J. W. Spooner  
Albert Wren  
John Yaremko  
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler                      Deputy Minister of Labour

CULINARY-BARTENDERS AND HOTEL SERVICE  
EMPLOYEES, ONTARIO PROVINCIAL COUNCIL

William Kitching	President Local 254, Toronto.
Ronald Batchelor	Sec-Treasurer, Local 280 Toronto.
Harry Persson	Executive Officer, Local 743, Windsor.
John Duncan	Executive Officer, Local 197 Hamilton.
Mrs. Una Fedorowich	Member, Local 299, Toronto
Mrs. O. Zambri	Asst. Business Agent, Local 299, Toronto.



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CANADIAN CONSTRUCTION WORKERS' UNION, DIVISION No. 2

James Young

President, National  
Council of Canadian  
Labour

William Sye  
Ronald Murphy  
George Chatfield  
Clive Thomas

President of the Union  
Secretary-Treasurer  
N.C.C.L. Board Member  
General Secretary,  
N.C.C.L.



THE CHAIRMAN: Gentlemen, I see this morning we are to hear from the Culinary-Bartenders and Hotel Service Employees, represented by Mr. William Kitching, President of Local 254, Toronto; Ronald Batchelor, Secretary-Treasurer of Local 280, Toronto; Harry Persson, Executive Officer of Local 743, Windsor; John Duncan, Executive Officer of Local 197, Hamilton; and Mrs. Una Fedorowich from Local 299, Toronto. Who will be presenting the brief?

MR. BATCHELOR: I will, Mr. Chairman.

THE CHAIRMAN: The procedure we follow, Mr. Batchelor is that the brief is read in its entirety and then after it is read you and those associated with you submit yourselves to questioning from the members of the Committee.

MR. BATCHELOR: Very good, sir.

THE CHAIRMAN: You may sit down to read it and also sit down when you are being questioned.

MR. BATCHELOR: Thank you very much, sir. May I continue, sir. Mr. Chairman and distinguished members of the Committee on Labour Relations.

--- Mr. Batchelor reads brief to bottom of page 2:

"... have a combined membership of approximately  
 "ten thousand men and women employed in Restaurants,  
 "Clubs, Taverns, Industrial and Plant Cafeterias."

Mr. Chairman, I would like to make a point of clarification there, and this is a clerical error with reference to our Secretary. This ten thousand figure is incorrect, sir. We represent approximately seven thousand workers, but there





are ten thousand workers organized in this field throughout the province. I would just like to make it clear.

---Mr. Batchelor read the remainder of the brief.

THE CHAIRMAN: Thank you very much, Mr. Batchelor. Now then, gentlemen, in the usual manner, are there any questions arising out of the preface to this brief on page 2?

MR. YAREMKO: How many establishments are covered by your collective bargaining agreements?

MR. BATCHELOR: That would be hard to ascertain, because we have never taken a census so to speak of our local Unions.

MR. ROWNTREE: You have never taken a census of the local Unions.

MR. BATCHELOR: Now, as to the number of collective bargaining arrangements they now hold I can't say though if it is necessary for this Committee to have that information I can certainly provide them with that information within possibly a week.

In the City of Toronto, while I cannot confine this to the City of Toronto because this is of a provincial nature, I would say there is in the vicinity of approximately 105 agreements in the City of Toronto, for example.

THE CHAIRMAN: Of the possibly ten thousand people engaged in this industry you represent about 70 percent.

MR. BATCHELOR: Seven thousand, sir, yes. The other three thousand, I might say, Mr. Chairman, are represented by



the likes of the Mine and Mill Smelters Union, the United Mine Workers, and the Retail and Wholesale people and the Building Service Employees are also engaged in some of our fields.

MR. MacDONALD: In other words the ten thousand is the figure of those organized.

MR. BATCHELOR: That is right.

MR. MacDONALD: How many are not organized?

MR. BATCHELOR: I would think, and I say this with reservations, there is potential membership in the Province of Ontario of approximately 65,000 to 75,000 people.

MR. YAREMKO: How many of these establishments that you have, say, in Toronto area would have a payroll of ten or less? What proportion are over ten and what proportion would be under ten, just roughly?

MR. BATCHELOR: Over ten I would say 90 percent of them, sir, have 10 employees or over.

MR. REAUME: Your Union is the only one, isn't it, that confines itself to the field of the hotels and restaurants.

MR. BATCHELOR: That is correct.

MR. REAUME: How far afield, if I may ask this question, for certain, has the Mine Workers gone? I always thought they were more or less confining themselves to the Mine Workers.

MR. BATCHELOR: District 50, we have been given to understand, have the whole bargaining rights in the likes of Cobourg and Peterborough. Now, how far afield



they have gone besides that I couldn't say, sir.

MR. WREN: Did you ever organize the mine?

MR. BATCHELOR: No, sir, though just for clarification, sir, we service the miners in industrial cafeterias.

THE CHAIRMAN: What possible connection is there between the Mine Workers and the Hotel?

MR. MacDONALD: I think, Mr. Chairman, the answer to the thing - -

THE CHAIRMAN: Let this witness answer, please.

MR. KITCHING: Mr. Chairman, we have in the mines for instance, there is generally a caterer, and we wish to submit further evidence on this later in this hearing if it is requested by the Board. There are certain cafeterias though with the job of feeding the miners, but theirs is not an entity for the purpose of the labour relations of the miners.

THE CHAIRMAN: Like Crawley-McCracken.

MR. BATCHELOR: Like Dominion Catering. Now, in this instance the mine is doing its own feeding, in which case the miners are recognized by the Board as an industrial organization. Like, the Steelworkers have many cafeterias within their organization which have been forced upon them because of the peculiar nature of the Labour Relations Act.

THE CHAIRMAN: I understand.

MR. REAUME: Getting back to District 50, isn't it a fact that they are organized in any field? I mean, they will organize lawyers if they are given a chance.

THE CHAIRMAN: Oh, no.





MR. REAUME: Yes, if they can.

MR. BATCHELOR: With all due respect, sir, to your question, I would say the people who would be mainly responsible to answer that question would be District 50. We cannot speak on their behalf. I have been given to understand that District 50 will go ahead and possibly organize all types of workers, now, but as I say, that is just hearsay. To get an accurate statement in reference to your question, I would say that you would have to call District 50 and put the question to them.

MR. MacDONALD: They are here this afternoon, so you will have that opportunity.

MR. REAUME: Perhaps it is a question that 50 are on the outside of the organization of the A.F. of L.-C.I.O., but bringing it down within the four corners of the Union itself, I was just wondering, are we making any advancements towards that day when any Union such as yours will be the only one that is allowed to organize any field, for instance, in the Hotel field, Restaurant field?

MR. BATCHELOR: In answer to your question, Mr. Reaume, we would like to see that. We confine ourselves particularly to the Hotel, Restaurant, Industrial Cafeteria, Main Cafeteria field. We do not go outside of that.

MR. REAUME: I know that.

MR. BATCHELOR: But I cannot say that there is any particular advancement at this time in this country, although we are given to understand that there has been some advancement



in the United States towards that end.

MR. ROWNTREE: That is a jurisdictional matter within the Union movement, is it not?

MR. BATCHELOR: That is right.

MR. MacDONALD: May I ask you this. In some instances, small collective bargaining units have been organized by a larger Union in the area and in some instances when they have been organized fully hand it over to the correct jurisdiction. Have you ever received into your jurisdiction a group that have been organized by another Union?

MR. BATCHELOR: Well, yes, we have one particularly, Mr. MacDonald, with reference to Oshawa, for example. Oshawa was chartered under the old United Hotel and Restaurant Workers, and we applied before the Board for successor rights to take over the Oshawa workers, and now Oshawa Hotel Employees are part of Local 280 in Toronto, sir, but that is the only transfer that I can recall.

MR. MacDONALD: The reason why I raise this is one answer, I think, to Mr. Reaume's question. Sometimes it is a very expensive proposition for a Union to send organizers out into an isolated area to organize a local, and what will happen is that organized labour in that area will take the job of organizing them.

MR. REAUME: And they hand it over.

MR. MacDONALD: Sometimes they hand it over, sometimes they remain in the Mine and Mill or Mine Workers or something like that. That is rather an anomalous situation.



MR. REAUME: I would think if they were to hand it over after organizing it would save a lot of confusion and trouble, wouldn't it?

MR. BATCHELOR: It would.

THE CHAIRMAN: That is a matter for the Union. We have no power to do so. Page 3?

MR. ROWNTREE: I have a couple of questions, Mr. Chairman. You have seven thousand members, about three thousand affiliated. What about five years ago? What has been the rate of growth?

MR. BATCHELOR: The rate of growth, I would say, has been approximately 20 percent.

MR. ROWNTREE: Each year?

MR. BATCHELOR: No, over the past five years, I would say we have increased in numerical strength approximately 20 percent in the past five years in this province.

MR. ROWNTREE: Can you give me some example of the types of firms with whom you have contracts in Toronto?

MR. BATCHELOR: In Toronto?

MR. ROWNTREE: To make it easy.

MR. BATCHELOR: Yes, I will, sir. You take the Royal York Hotel for an example. That is one complete industrial bargaining unit of 1,400 employees. That is one group that takes in silversmiths, chesterfield makers and everything, and it is like a city unto itself so to speak. On the other hand we have small bargaining units of two people.

Now, in Mr. Kitching's local of the Union he goes



far afield towards the boundary of Manitoba in industrial feeding and industrial Cafeterias. Mr. Persson is in Windsor and, for example, has major hotels in Windsor, but he has small beverage rooms in Windsor.

MR. ROWNTREE: For the record, as I understand it you are the leading Union in this field.

MR. BATCHELOR: Sir, with all due respect to your question, we feel that we are the only Union in this field.

MR. ROWNTREE: Can you tell me what proportion of your people in this industry are full time employees as against part-time?

MR. BATCHELOR: Yes, sir. I would say approximately -- well, I would like to split your question, if I may, sir. Of the people we organize, I would say 85 percent of them would be full time workers, 15 percent approximately would be part-time workers.

However, in the unorganized establishment the employer is free to go ahead and use spare help and will so to speak, and the result is he takes particular advantage of the special occasion by calling the waitress into his restaurant for the rush hour from eleven-thirty to one o'clock, chases her home and she comes back again from five o'clock to six-thirty, chases her home and that is it, sir.

MR. ROWNTREE: But the part-time group, however, does embrace people who are only interested in part-time work.

MR. BATCHELOR: Not specifically, sir. We have people who work on the regular part-time basis who are





dependant on that part-time work.

MR. ROWNTREE: Why I asked the question, I don't think your answer is entirely right. I make a particular point, and have for over ten years, to inquire of waitresses at conventions I attend, whether they are full time employees, and invariably the answer is that they are part-time employees and that is as much as they want to work. They come into a hotel for convention dinners.

MR. BATCHELOR: To pick up a little pin money.

MR. ROWNTREE: That is right.

MR. BATCHELOR: True, I am not denying you that. There are a lot of people who just want to work part-time, period, because it conveniences them. They possibly may be making payments of T.V. set that they want to knock off. On the other hand we had people who are regular part-time workers, and especially in the banquet field, that you wish to confine this question to, who rely on banquet work as their means of livelihood.

MR. ROWNTREE: They are on call.

MR. BATCHELOR: On call, absolutely.

THE CHAIRMAN: Page 3, gentlemen, "Summary of Application of Existing Legislation and Its Effects on the Hotel and Restaurant Industry of the Province.

MR. PERSSON: If I may gon on, in reference to Windsor, we say 95 percent of all Union members are full time employees, and the other 5 percent, most of whom would be banquet waiters are part-time because that is all the work which is available. However, the greatest portion of those



banquet waitresses are definitely in there working because they want the minimum employment because they are on the payroll of two or three different establishments. It is a very contentious question. We run into the odd one who wants to take a job according to their wishes trying to make a comfort for themselves. However, we feel in this Union if you do an adequate job you should be able to make yourself available for all work available, not just have it as a convenience.

THE CHAIRMAN: Would it be a proper inference from what you say to conclude that the part-time people constitute the group who do not want to belong to the Union?

MR. PERSSON: Oh, no. They definitely want to belong to the Union, because we have a condition where when they are excluded from the bargaining unit the employer, and it is perfectly within the law, can go ahead and pay any wages they so desire. He doesn't have to give them any proper fringes which are all included in all the agreements, like uniforms. For all waiters covered by all Union agreements in Windsor they either get free uniforms or get \$2 in lieu of wages for the use of uniforms, keeping them in repair and clean.

So if they are excluded from the bargaining unit, they not only could work for less wages, although it doesn't too often happen that they pay below, but they also lack statutory holidays, medical and Blue Cross, sick leave and uniforms, etc.

MR. MacDONALD: Could I ask one other question about these part-time workers with regard to such portion of them who are not to be included because of working less than twenty-four



hours a week.

MR. PERSSON: Yes.

THE CHAIRMAN: That is later on. Can we wait till we come to that?

MR. MacDONALD: I just want to ask, is this a significant proportion?

THE CHAIRMAN: We want to keep them in chronological order if we can, Mr. MacDonald. All right, go on. If we are going to discuss it now, let us discuss it and then we won't have to discuss it later.

MR. BATCHELOR: The question was, if it was a significant proportion?

MR. MacDONALD: Yes, how significant a proportion are those under twenty-four hours a week of the overall part-time workers group?

MR. BATCHELOR: Ninety percent.

MR. MacDONALD: Ninety percent? In other words, ninety percent of the part-time workers would normally work less than twenty-four hours.

MR. PERSSON: . That is right. Then we have this problem that as far as being an employee of one company they are part-time employees according to the Labour Act, the fact that they work less than twenty-four hours, but they might work in two or three various establishments which are covered by collective agreements, and thereby altogether work the full work week, say, 35 or 40 hours a week.

MR. MacDONALD: What is your average week in your industry?





MR. PERSSON: In Windsor it is, I would say an average of 46 now. Some members are 44 and 48.

MR. ZAMBRI: Mr. Chairman, if we are discussing part-time workers, I would just like to enlighten the Board that this is not peculiar only to waiters or waitresses. It also has in some establishments gone as far as the maids in the housekeeping department, and painters and upholsterers, and that type of work, and it is not exclusive to waiters or waitresses only. They do have some of their establishments and large hotels maids who have been part-time maids for a year or so or two years even, and because of the fact that they do not work twenty-four hours a week they are excluded from the bargaining unit and we cannot represent them whatever.

MR. MacDONALD: Like casual civil servants who are casual for 25 years.

MR. ZAMBRI: And they certainly wish to come into the bargaining unit. We are restricted because of the fact that they do not work 24 hours. It certainly affects our negotiating position considerably in some establishments.

MR. WREN: Do you find any discrimination in wages towards those people?

MR. ZAMBRI: As far as wages are concerned they have been pretty fair, but there are other things besides wages.

MR. WREN: I realize that, but the point I am making, when a maid, for example comes in just to relieve on week-ends, she would get the same rate of pay, would she?





MR. ZAMBRI: Same rate of pay basically, except you would run into the difficulty in the way of overtime, where in our agreements they get time and a half and they might not in some cases get time and a half but just get straight time. You do an hour or so at the time.

THE CHAIRMAN: Anything further on page 3? If we are going to jump from pillar to post on this brief, let us decide to do that, but you gentlemen have presented this brief in a very orderly fashion, and I think the members of the Committee should try to do it the way we have always done it, page by page. "Summary of Application of Application of Existing Legislation; Its Effects on the Hotel and Restaurant Industry of the Province." Anything on page 3? Page 4?

MR. MacDONALD: What exactly do you mean by that comment that the Hotel and Restaurant Industry is such that they cannot depend on the Labour Relations Act?

MR. BATCHELOR: Well, Mr. MacDonald, in a way we cannot depend on the Labour Relations Act in reference to trying to organize our people in the proper fashion, because of the fact that there are certain time lapses; because of another fact that lots of our people are expendable: With the result that due to the time lapses to abide with the provisions of the Act, it gives employers all sorts of time, in our estimation, in which to go ahead and completely rehearse what we caused to be filed with the Labour Relations Board.

MR. MacDONALD: Has this kind of problem in the past placed you in a position where at one time you are acting illegally?



MR. BATCHELOR: No, sir. We have always -- I won't say that we have always -- but in most occasions, sir, we have always gone according to the Labour Relations Act; we have always followed the various sections of the Act in trying to gain representation and proper representation for our people.

But as I say, because of the fact, where you file an application, I would say within approximately two weeks after that your time comes up for hearing, but in that 14 days, I might say, that the roof in some cases completely collapses so to speak.

THE CHAIRMAN: How do you mean, in what way?

MR. BATCHELOR: In what way? Well, after we have filed the application for bargaining rights, sir, the employer is notified, he has Form 3 to post, and that is the first indication that he has normally gained that a union has taken steps to try to gain representation and bargaining rights for that particular staff. The result is that it is a natural reaction for some of those employers to immediately take steps -- we have seen that on occasion. I can't relate one such case to you, but as soon as Form 3 was posted on the midnight of the very same evening the boss got his staff together and he said: "What the hell is all this? Who signed the application for membership in the union?". Before you knew it, letters of intervention had gone in before the Board. But I had those people brought up and subpoenaed and eventually I got my bargaining rights.

MR. ROWNTREE: So in a righthanded way you achieved the correct result?



MR. BATCHELOR: Yes, sir, but it is very difficult.

THE CHAIRMAN: It shows the power of the Act.

MR. BATCHELOR: It shows the power of the Act, there is no doubt about that.

THE CHAIRMAN: That you can bring these people up.

MR. BATCHELOR: In some cases where people are militant enough that they will stand by their original convictions, but where people have obligations, and our people are not high-handed people by any stretch of the imagination, they don't like to lose their job because of the fact they are going to join a union organization.

THE CHAIRMAN: But in the experience you have demonstrated, you have brought before the Board, they haven't lost their job, have they?

MR. BATCHELOR: Let me put it this way, Mr. Chairman. They haven't lost their job, but in ensuing days enough pressure was brought to bear on these people that eventually they had to quit their job.

MR. MacDONALD: Would you say in most instances where this kind of action is taken, that you are able to sort of salvage the situation.

MR. BATCHELOR: On a provincial-wide basis, sir, I would say no. For my part, sir, I have been very insistent, I have been very successful going before the Labour Relations Board. I think I have applied for approximately 25 applications for bargaining rights within the past four years and I have come up with 25 certificates. As I say, in many of those





instances we have battled our blooming heads off, so to speak.

MR. MacDONALD: Is your area Toronto?

MR. BATCHELOR: We demand, comparatively, a good deal of respect from the employers, as a rule, and we are working in liaison with a Hotel Association, and the Hotel Association tries, to the best of their ability, to ~~straighten~~ their people out, because when their people turn around and phone them they say: "Look, that union doesn't apply for bargaining rights unless they have a substantial majority".

THE CHAIRMAN: The Hotel Association represents the employers.

MR. BATCHELOR: In this particular city, not all the employers.

MR. ROWNTREE: Seems to me that you have got a pretty happy set-up with a thousand batting average and complete co-operation.

MR. BATCHELOR: Not complete.

THE CHAIRMAN: With the Ontario Hotel Association.

MR. MacDONALD: Mr. Chairman, Mr. Rowntree has missed the point that on a province-wide basis the majority of cases have not achieved this justice.

MR. ROWNTREE: He is talking about Toronto.

THE CHAIRMAN: I would suggest they refer these cases to Mr. Batchelor and have him lead them on. The people to whom you refer, these employers, they just happen to be realistic enough to know that trade unions are here to say whether they like it or not.





MR. BATCHELOR: That is correct, sir.

THE CHAIRMAN: They are gradually going to come around to that point of view.

MR. BATCHELOR: We hope so, sir.

MR. PERSSON: I would like to add in there, I disagree with the other gentleman on the Board that we have ways and means of solving all our problems.

I would like to cite an instance, records of which will be filed with the Labour Relations Board, where about three or four years ago I organized four establishments in Chatham and I had 90 percent membership in all four establishments.

By the time I came before the Board everybody had sent in withdrawals from the union. It was proven that these employees were getting \$9 increase, wages were increased between the time that the application had been filed and the time of the hearing before the Board. There was one employee acting on behalf of all the other employees with a lawyer, and during my cross-examination the evidence was quite clear that this particular employee did not know enough about the Labour Relations Act to know how to get on with all these things. He used the company lawyer, the company advised him who to get, and the lawyer to get, and the outcome was that the Board decided we should hold a vote.

I refused. I thanked them for the opportunity of having a vote, but I suggested the damage had already been done. All these members, 90 percent in three establishments, withdrew from the union and obtained the increase, just as



much as I could have got through bargaining but they still didn't have any job security, all they got was the increase.

I want to stress that we haven't got the opportunities of solving all our problems.

Don't forget, when it comes to organizing, we have a lot of employees fired during the stages of organization, and cases like that would not appear before the Labour Relations Board. It has to go through, first, a conciliation officer who comes in to see what is wrong.

Personally I can't see, if you have a problem over a man having been fired for union activities, I can't see where that is a conciliatory matter. I believe it is a matter which should be prosecuted if the evidence is there that either one has done something wrong.

I hope I am in order in mentioning an instance which happened about eighteen months ago, the records of which can be found with the Labour Relations Board. The company received notice that the hearing would be before the Board about 7 or 10 days later, whatever it was. The employer got that letter about ten o'clock in the morning by registered mail. Five o'clock that afternoon a bartender who had worked there for seven and a half years -- he had never been disciplined, never been laid off, he was just one of the family, so to speak -- the boss said, "You have started the union. Get out."

I sent a telegram to Mr. Metzler, as I always do in those cases. In a few days I got a conciliation officer in. Now, the case was obvious to the lawyer to the company, who is



a very fair and smart lawyer and if the company is wrong he will admit it.

THE CHAIRMAN: All lawyers are fair.

MR. PERSSON: I don't think I am in the position that I can afford to differ with the Chairman.

---(Laughter)

But this conciliation officer did a terrific job just the same, but the man lost two and a half to three weeks' wages, and the conciliation officer was not able to get the money. I had no grievance procedure. I figured I was lucky to get him the job back. Why should that man lost \$100? The fact that they took him back showed something was wrong, and I feel that the Labour Board should be able to prosecute.

THE CHAIRMAN: Why wouldn't the grievance procedure be available?

MR. PERSSON: Because I had no contract. We were in the stage of organizing and becoming certified.

MR. ROWNTREE: It is an offence under the Act to discharge a man for union activities, and I agree with you that you want to do something about it.

MR. PERSSON: That is the reason I brought up this particular case, because you, sir, were under the impression a few moments ago that we had a vehicle here whereby we could solve and resolve all our problems.

MR. ROWNTREE: I think you have a vehicle because you lay a charge.





MR. PERSSON: I did.

THE CHAIRMAN: What can be done in these cases Mr. Metzler? If what this gentleman says is correct, and I have no reason to doubt his word, surely that is an obvious and flagrant violation of the spirit of the Act.

MR. METZLER: Mr. Chairman, there are two methods of procedure in connection with discharges allegedly for union activity. The first and greater method of trying to get the man back to work, and that is what we have discovered: A complaint is made to the Minister and the Minister appoints a conciliation officer. As long as the plan is directed towards the discharge of named individuals that we can find, get in touch with through the union, we will proceed to investigate. If the conciliation officer is able to get the man back to work, fine. If he cannot, then he has a duty cast upon him to report to the Minister as to whether or not he considers that there is sufficient information of evidence available upon which the Minister should act to appoint a Commissioner. The Commissioner will then hold a formal hearing of the parties and they can attend, and then he will make recommendations on the situation. That is the first method.

THE CHAIRMAN: Why shouldn't the employer in this particular case be made to pay that man who was laid off for union activities?

MR. METZLER: Mr. Chairman, all I would say, accepting everything that Mr. Persson has stated in connection with this thing has been factual, the man and the employer and the union or representative, Mr. Persson, reached a satisfactory





conclusion on the thing. I can cite another instance -- I guess maybe I had better not because I haven't got the outcome of it.

THE CHAIRMAN: It is satisfactory in the sense that the man got his job back, but he shouldn't have lost the wages. Why shouldn't that employer be required to pay him? Why shouldn't there be something in the Act that makes it compulsory in such instances?

MR. MACAULAY: Why shouldn't the Minister prosecute him? It may be a satisfactory result, but from the point of view of public morality most unsatisfactory, the fact that a thief and the man from whom he stole, settle out of court doesn't mean it is any less of an offence against public morality.

MR. METZLER: That may be, but that was accepted by the parties.

THE CHAIRMAN: Did you make any fight about him not getting his pay?

MR. PERSSON: I put up all the fight I could.

MR. MYERS: You said you made a prosecution. What was the result?

THE CHAIRMAN: No, he didn't say that.

MR. ROWNTREE: This is an interesting case, assuming the facts to be as you say.

MR. PERSSON: They are the facts, sir.

MR. ROWNTREE: One of the things that is available and has been established as a right of labour, is the right of



economic sanctions, if you know what I mean by that, the right to strike.

MR. PERSSON: We haven't got a contract, sir. I would have had injunctions, I would maybe end up in jail.

MR. ROWNTREE: Did you end up with an agreement and were you certified as the bargaining unit?

THE CHAIRMAN: No.

MR. ROWNTREE: Or did you lose the day entirely?

MR. PERSSON: I would have to answer the questions as you started them. The notice went up this morning in the establishment that we were to appear before the Labour Board and see if we would become certified. Now, Mr. Metzler being here, is fully aware, that you send in a sufficient number of application cards and receipts for moneys paid, and that is figured, based upon the figure of the total number of employees, but this notice would never have been hung up to begin with, because the government instructed the company to hang this thing up due to the application cards. So the same day a man gets fired. Now, I have no application, I have no contract, I have no grievance procedure.

MR. ROWNTREE: If you will just bear with me, did you succeed or not in becoming certified?

MR. PERSSON: I did, sir.

MR. ROWNTREE: Well, I am extremely surprised that you did not in the course of negotiating the contract, make that one of the terms, that that man be paid for two weeks, because he should be paid.



MR. PERSSON: Sir, that is the way Harry Persson feels, but I don't think that it is quite according to Hoyle when it comes to negotiation.

MR. MacDONALD: I think, Mr. Chairman, the point is, maybe they had to make a choice of getting the union in and having their foot in the door, or having to strike immediately to get retribution in that one instance.

MR. ROWNTREE: So that they sacrifice the man's wages to get the agreement. I don't mean it negatively in the way that that sounds, but if it had to do with a quid pro quo within the Union hands of getting their first agreement signed, then maybe the Union should have paid the man the two weeks' wages.

MR. MacDONALD: What in effect you are asking is the Union should have gone out on strike to get justice of something which was the obligation of the Government to supervise.

MR. ROWNTREE: That is not what I said at all.

MR. MacDONALD: That is exactly what you are saying.

MR. ROWNTREE: You listen to me for a moment, Mr. MacDonald. We have been talking about the rights of Labour to exercise economic sanctions. You have been saying, and others, that this is an established right.

MR. MacDONALD: That is right.

THE CHAIRMAN: Once they are organized and they are in the bargaining unit.



MR. MacDONALD: They are not going to act in a haphazard fashion just to correct the sins of omission of the Government in not furnishing their own machinery.

THE CHAIRMAN: Mr. Metzler, was there any procedure available -- perhaps I should know this -- was there any procedure available of any kind after the man had been taken back on the payroll? Could an application have been made for leave to prosecute the employer for having fired the employee? Is there any other procedure?

MR. METZLER: The procedure is there but whether under the particular circumstances it would be available I wouldn't know.

THE CHAIRMAN: It wouldn't be available unless it became a bargaining unit.

MR. METZLER: No, no.

MR. YAREMKO: After the man has been taken back on the job the union could have applied under the Act for leave to prosecute.

MR. METZLER: It could have applied for leave to prosecute. What would have been the outcome nobody can say. The question has been raised that whether or not it should be a public or private prosecution in respect of an offence under the Labour Relations Act, but I have found they have always proceeded on a private prosecution basis, because there has to be, for the personal righting of the act leave to prosecute by the Board.

Now, what would be the position of the Department of Labour as such making its own preacher, as it were, to determine



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whether or not in a particular set of circumstances they wanted leave to prosecute -- we have never taken the initiative in doing that. It is up to the parties. If they want to bargain in the police courts, let them go to the police courts.

MR. PERSSON: Mr. Chairman, I beg to differ whereunder the Section of the Act where if somebody in our opinion has been unjustly dismissed, I am asking for the assistance of the Labour Department. I am in no position to tell the Department what procedure to use. They are to follow this Act. They appoint a conciliation officer and assuming that the conciliation officer could not get this employee back to work, then, if in the conciliation officer's opinion there was sufficient evidence he could then recommend to Minister Daly that a Commissioner be appointed, and once it gets into the Commissioner's hands and he hands down his decision, whether it is with me or against me, I must abide by that Act. I am submitting that I have no opportunity to go ahead and go through the courts outside of this Labour Relations Act. I follow the procedure of the Act, as when where I suggest it is a weakness that if the Conciliation Officer in this case was able to have the lawyer from the company and the company agree the man should be reinstated, we say that the Department of Labour should see that the law was applied, to achieve both purposes, and that is to say: "Well, okay, take him back to work today, but you are going to have to pay that man also according to the Labour Act".



We feel, sir, I have no recourse to go through the courts because I started out legally according to the Act and I must finish up according to the Act.

MR. METZLER: Mr. Chairman, I think Mr. Persson has misconceived in some way to the effect of the Legislation. He made the choice of asking for the conciliation officer, because he either wired me or the Minister of Labour and asked for the appointment of a conciliation officer to investigate the dismissal of this particular person.

The only provisions of the Legislation under which we could make such an appointment of provisions that contemplate the further appointment of the Commissioner. That is our power, that is the only power given to us.

I say that there was, and as far as I am concerned I don't know, I wouldn't presume to base any thinking or opinion on the facts, but there is the other remedy of prosecution if he wants to exercise it. As far as the restoration of the man to his job and the payment of the money, if the conciliation officer could reach a position where he could say, "Now, you can have your job back but I cannot get you any money", it was still within the competence of the man to say that he would not accept that.

MR. MacDONALD: Surely that is an anomalous position if there is an injustice and the Labour Department comes to correct an injustice and halts when they have only got partial justice.

MR. YAREMKO: Let me continue through the line



of reasoning that the negotiations had reached this stage that the company said: "We will take him back but not give him retro-active pay". The employee and the union could have said: "We will not settle" and then the conciliation officer would have gone back to the Minister and said this, and then the Minister could have appointed a Commissioner.

MR. METZLER: Right.

MR. YAREMKO: And the Commissioner could have ordered - -

MR. METZLER: Ordered reinstatement.

MR. YAREMKO: Ordered reinstatement with retro-active pay.

MR. METZLER: That is correct.

MR. YAREMKO: And if the employer didn't like to do that, then the Minister would have to issue his directive.

MR. METZLER: That is right. There is another aspect of this thing that I think should also be made. There have been occasions where these complaints had been made and the situation had been so bitter that the employee says: "By gad, I am not going back, and I am going to be paid for it" and he has been paid and there has been settlement with payment of the money but no restoration of employment; but we don't care what the circumstances are going to be when you come into a situation of that character.

MR. MYERS: Wouldn't the man have a civil right to sue for his wages?

MR. METZLER: His civil rights are not breached





by the Labour Relations Act. He has a contract of service.

5 MR. MYERS: He could sue in the Division Court for the wages, couldn't he?

MR. MACAULAY: We are linking it up with the recovery of these wages. It is my respectful submission that the real issue is the fact that we have an Act which is supposed to make easy or available to people the organization of unions; and here is a man who discharged the men openly. The issue of their wages is a very important thing, but it seems to me that the public morals involved in the Act have been severely breached, and regardless of whether the parties get together and think it was okay to do one thing or another, it seems to me somebody should have been prosecuted. My own view is that it is not the obligation of the union or the individual. I think somebody should have been prosecuted by some public body.

MR. METZLER: Mr. Macaulay, on that - -

MR. MACAULAY: Granted, you have no power. I am not criticizing you. My view is that I say some consideration should be given as to power being given to some public body to do it.

MR. METZLER: The thing is that becomes a matter of public policy, but if you are going to have it you must look at the section of the Legislation that requires that leave to prosecute be granted by the Labour Relations Board.

MR. MACAULAY: We can fix that up.

THE CHAIRMAN: You don't have to go to the



Highway Traffic. ' to ask for permission to prosecute for a charge of careless driving.

MR. METZLER: That is true.

MR. YAREMKO: I would like to ask Mr. Persson this question. Is the bartender still in the employ?

MR. PERSSON: Yes.

MR. YAREMKO: Do you have a collective agreement with the employer?

MR. PERSSON: I have a collective agreement in force now, yes, sir.

MR. YAREMKO: May I ask you, what are your relations with the employer now? Are they good, medium or are they bad?

MR. PERSSON: No, I say they are reasonably well.

MR. YAREMKO: So perhaps that settlement that you acceded to in the long run had a good effect for Labour Relations within that particular Union.

MR. PERSSON: I hope that it was a question and I must answer that. Mr. Chairman, I would say that the relationship, today, if it could be attributed to any action taken some time ago, it is perhaps the 137 days' strike which we had in that establishment to obtain the first agreement.

MR. MACAULAY: Mr. Yaremko has now put away his violin.

THE CHAIRMAN: Mr. Persson, would it be fair to say in this particular case, in the ultimate settlement which was arrived at, that the bartender involved was satisfied that he should not try to process his claim for the wages that he



had lost.

MR. PERSSON: He was very unhappy, sir.

THE CHAIRMAN: I know he was unhappy, but did he agree to it?

MR. PERSSON: I can't answer that just for now.

THE CHAIRMAN: Was it a condition of his being taken back to work?

MR. PERSSON: It is a matter of the sacrifice of \$110 which was rightfully his, or accepting a job which was perhaps - -

THE CHAIRMAN: Did he agree to do it? Why didn't you advise him: "Don't do that. We will get you back to work, we will apply for a commission".

MR. PERSSON: All right, sir. I have had the other cases that we were not able to get any settlement and where commissions were appointed, where two Commissioners were appointed last year. I have the judge's reports here pertaining to the dismissals. In one case I had the three employees dismissed for union activity and in the other case I had the one.

I have certain quotations here to show where in the Chatham case, the judge, Judge MacRae from London -- a very respectable and kind judge -- may I quote from him?

THE CHAIRMAN: Yes, sure.

MR. PERSSON: This is the reason why, while I don't like to make sacrifices of other people's bread and butter, half a loaf is better than none, and I have lost



better cases than the one I was referring to completely.

THE CHAIRMAN: Allright, if you are right, you are right.

MR. MacDONALD: Not necessarily.

THE CHAIRMAN: Invariably. He was going to give us a quotation.

MR. MACAULAY: Read it all if you want.

MR. PERSSON: "I was appointed a Commissioner under  
"Labour Relations Act to inquire into the above-  
"mentioned matter and to report to the Minister of  
"Labour in accordance with the Labour Relations  
"Act.

---(This is Judge MacRae and it is the William Pitt Hotel,  
Chatham.)

I held a hearing at the Court House in  
'Chatham on June 15, 1957. The Union was represented  
"by Mr. Harry Persson, appearing for Local 743 . . .  
"Mr. S. L. Clunis, Q.C., of Chatham was counsel  
"for the William Pitt Hotel. Both parties  
"presented evidence and, at the conclusion thereof,  
"waived argument.

"Mrs. June Noel of Chatham, a married woman  
"separated from her husband was employed as a  
"waitress at the Hotel. Altogether she had  
"worked there about three years having first  
"been employed part time and then steadily.  
"She quit, was re-employed, later dismissed and





"re-employed about three weeks later. She was  
"dismissed by Mrs. Mary Purdy, the hostess in  
"the dining room, on April 5, 1957.

"Mrs. Purdy was in full charge of the  
"dining room being responsible for the hiring  
"and discharging of dining room help. She had  
"been employed at the Hotel dining room for  
"about twenty years but had left about a month  
"before the hearing and was not in the City at  
"the time of the hearing.

"The Hotel which was recently acquired by  
"new owners was managed by Mr. Frank Carruthers,  
"Mr. Tennent, the former manager, having left on  
"February 20, 1957, at which time Mr. Carruthers  
"took over."

THE CHAIRMAN: Let us get down to the meat of  
it.

MR. PERSSON: Okay.

"An application for certification was made  
"by the Union to the Labour Relations Board in  
"Toronto on March 20, 1957. Mrs. Noel was sub-  
"poenaed on March 18th to appear as a witness  
"and she attended the hearing. Several other  
"employees were subpoenaed and attended. A  
"notice of filing of the application was posted  
"in the basement of the Hotel as required. The  
"Union Organizer was busy organizing the employees



"and had called a meeting for March 14th at the  
"Blue Bird Restaurant in Chatham. Notice of this  
"meeting was forwarded to all of the wait-  
"resses, Union members and non Union members alike.

"Mrs. Noel, ~~the~~ dismissed employee, testified  
"that Mr. Carruthers, the manager, called a meet-  
"ing of the employees in the dining room on March 6th.  
"They were informed that the Union was trying to  
"organize the employees of the Hotel and Mr.  
"Carruthers suggested that maybe the employees  
"could get together and have their own Union. He  
"suggested a fee of \$3 monthly which at the end of  
"the year would be received back with interest at  
"ten percent. If anything was wanted the employees  
"could confront management with their differences.  
"Mr. Miller, the maitre d', asked if it was the  
"money that was bothering the employees and one  
"employee spoke up and said that she certainly  
"wouldn't mind a little more money in her pay  
"cheque. Employees of the kitchen staff were  
"there making quite a number of employees. She  
"said that management was represented by Mr.  
"Carruthers, Mr. Miller and Sam, the Chef.

"Mr. Ray Vanden Heede, a baker, who had  
"been employed at the Hotel for four years and  
"nine months testified as to the meeting called  
"by management. He said that Mr. Carruthers



"opened the meeting and said that they all  
"knew they were having a little trouble, that  
an outside organization was trying to organize the  
Hotel; that they could organize their own Union  
"and didn't need an outside Union coming in; that  
"each could pay a fee of \$3 which would be paid  
"back with interest. The witness said that  
"Mr. Carruthers said that money paid to the Union  
"was gone and lost; that he thought the new owners  
"would be all right to get along with and there  
"would be some increase in wages. The witness  
"further said that Carruthers stated that with an  
"outside Union if there were disputes, if an  
"employee had a grievance, if a housemaid had a  
"grievance there could be a strike and all would  
"be losing money. 'Now is the time to speak up.  
"The Union is only for the lazy man.' The  
"witness said that Sam, the Chef, talked and said  
"that if the Union came in they would have to cut  
"down the staff, according to seniority, of  
"course. The witness said that when he was  
"about to go home that night Sam said to him  
"Mr. Carruthers had just seen him and said that  
"if he suspected anyone joined the Union to fire  
"him immediately; that he had orders from higher  
"up. On cross-examination the witness said that at  
"the meeting he didn't dare to say anything, that he





"felt that if he did he would lose his job.

"He felt that all of those attending were scared and

"that the atmosphere was confused. Mr. Carruther's

"attitude seemed to him to be one of nervousness.

"He said that Mr. Carruthers stated that he didn't

"want an outside Union in and preferred they have

"a local Union."

Then there are three other witnesses asked the same thing. I will be happy to read it but it is the same evidence.

THE CHAIRMAN: No, no.

MR. PERSSON: I must say this is signed by Judge MacRae.

THE CHAIRMAN: What was his finding?

MR. PERSSON: It would only take me two minutes.

One more thing I would say, Mr. Carruthers admitted that he made the statement about the three dollars and getting back 10 percent at the end of the year. So the Judge here says

"I am not, of course, required to deal with

"the matter of Mr. Carruther's actions in

"calling and holding this meeting. I take it

"that the evidence was put in for the purpose

"of indicating the attitude of the management

"and the atmosphere which prevailed in the

"Hotel. There is, no doubt, but that the

"meeting was held and statements made as stated

"by the witnesses. Management was against the

"Union organizing its employees."



So we go on. This girl used to get along very good with all the waitresses. When she comes back from this hearing before the Labour Board, nobody speaks to her. It is all herein the evidence. Nobody wanted anything to do with her. The hostess, the one who was working there for twenty years, very conveniently got out of town before this hearing in Chatham. She was very friendly. She used to give her some secondhand clothes and secondhand shoes and really nice, but when she found out that she was a member of the union then it is different. That last day of her employment she tells her that she was a trouble maker and that she was fired. In conclusion she even struck this girl on the job, this hostess.

THE CHAIRMAN: She which?

MR. PERSSON: She struck her, but they got another witness up here who says that this witness didn't think that Mrs. Purdy slapped Mrs. Noel. She said that Mrs. Purdy had a habit of patting girls on the cheek.

---(Laughter)

MR. PERSSON: I am reading verbatim now.

THE CHAIRMAN: As long as it is on the cheeks, it is all right.

MR. PERSSON: I would like to start from the beginning. This is a cute sentence.

"She said that Mrs. Purdy had a habit of  
"patting the girls on a cheek in a sort of  
"very affectionate manner. She said that



"if she said something she would sort of  
"slap one a little bit. Mrs. Glover called  
"it a love tap."

MR. ROWNTREE: Was this the woman who was married  
but separated from her husband and continued her employment  
with the Hotel on and off?

THE CHAIRMAN: This is the hostess.

MR. PERSSON: This is the hostess, and then  
going along and giving her love taps. When the witness was  
on the stand I said:

"Would you please demonstrate by patting my face  
"to show just how much she slapped or patted",  
but she wouldn't do it.

THE CHAIRMAN: You must have been into a law  
school one day.

MR. PERSSON: Here is the outcome of this whole  
thing.

THE CHAIRMAN: That is ~~what~~ we want.

MR. PERSSON: "The question here for  
"decision"

the judge says

"is whether Mrs. June Noel was discharged  
"for her joining or being active in the Union.  
'The circumstances appear suspicious to the  
'Union because the discharge occurred shortly  
"after the hearing of the application for cer-  
"tification. There is the evidence of the



"meeting which was called by Mr. Carruthers  
 "and the discussions which took place at it.  
 "There is also the somewhat strange situation  
 "where the other employees with a few exceptions  
 "were refusing to carry on their usual relations  
 "with her. These employees state that the  
 "reason for this was Mrs. Noel leading them to  
 "understand that she had not joined when she  
 "actually had done so. I did not have the benefit  
 "of Mrs. Purdy's testifying.

" . . .

"Under the circumstances if it were not for  
 "the evidence of what occurred in the Coffee Shop  
 "on the morning of the discharge, there would be  
 "an inference that the employee had been discharged  
 "for union activity. . .

"I have reached the conclusion that the onus  
 "of establishing that this employee was let out  
 "contrary to the provisions of the Act has not  
 "been discharged.

"I find, therefore, that the discharge of Mrs. June  
 "Noel was not in contravention of the provisions of  
 "the Labour Relations Act."

Sir, we have 13 pages of evidence all in the witness'  
 favour or the Union's favour. We have three paragraphs throw-  
 ing the whole thing out of the window.

THE CHAIRMAN: I thought you said this Judge was





a very kind and fair man.

MR. PERSSON: It pays me to use that type of language.

MR. MacDONALD: As a matter of fact, Mr. Chairman, there is one incidental point which rather strikes me as strange, that a written report has such irrelevant details as the fact of having been separated from her husband. I don't think there is any relevancy.

THE CHAIRMAN: No, neither do I, but here is the point. You get that decision and you complain of it but still you don't have the right conferred upon you to appeal from him.

MR. PERSSON: I have no appeal.

THE CHAIRMAN: But you don't want the Act to give you the right. You want the Act to take away the right of appeal to the Courts. You refer to that in your Brief.

MR. BATCHELOR: That is right.

THE CHAIRMAN: Don't you think that if the case on the record was brought to the attention of the appellant tribunal, that they would have rectified the position?

MR. PERSSON: If this went before the Labour Relations Board Mr. Finkelman would have got this girl back to work.

THE CHAIRMAN: Forget about Mr. Finkelman. You don't want anybody to have the right of appeal. Now, I suggest to you that in that particular instance, if you had the right to appeal to Court, that your complaint, if it was a complaint, and that decision was wrong on the



evidence that was brought out, that the Court will have set it right.

MR. MacDONALD: Mr. Chairman, how could he come to that conclusion if there were a charge sitting on it and coming to such conclusion?

THE CHAIRMAN: There have been many judges upset many cases and they have been set right by higher Courts.

MR. BATCHELOR: Mr. Chairman, to clarify our Council's position with reference to our submission stating that we do not wish cases appealed from the Labour Relations Board - --

THE CHAIRMAN: I can't understand it.

MR. BATCHELOR: I think I can safely speak on behalf of our Council to the degree that we have the utmost faith in the Labour Relations Board, and any such matters as pertaining to Labour Relations, in our estimation, should be finally resolved by that Board.

THE CHAIRMAN: Right or wrong.

MR. BATCHELOR: Right or wrong, sir.

MR. ROWNTREE: By the Board, not by the Commission.

MR. BATCHELOR: By the Board.

MR. ROWNTREE: Not by the Commission.

MR. BATCHELOR: That is correct. We have the utmost faith in the Board, we have every respect for the Chairman, and we have also suffered adverse decisions, I might say; but notwithstanding that fact we still have the utmost faith in the proper composure of the Board, we have the utmost faith in their decisions. We feel that they are not



biased and as such we keep our faith with these people and feel that they are the only logical people to go ahead and handle all matters as pertaining to labour relations in the province.

THE CHAIRMAN: I have great respect for any judge before whom I appear, but if I think the judge had decided a case wrongly and improperly, I insist on my right to have him set right.

MR. BATCHELOR: Mr. Chairman, I think you might do a little delving into the Liquor Licence Act of the Province of Ontario.

MR. WREN: Here, here.

THE CHAIRMAN: Why giggle, Mr. MacDonald. It is more like a parrot every time you sound it.

MR. MacDONALD: That is what your voice sounds like sometimes.

THE CHAIRMAN: It is not my voice. I don't cackle like a hen getting ready to lay an egg.

MR. JACKSON: Mr. Chairman, may I ask a question?

THE CHAIRMAN: Yes?

MR. JACKSON: In order to bring to the attention of the Committee both sides of the story, we have heard where an employee has been fired because of union activity. Isn't it true that your very union is being sued or is pending suit for discharge of an employee because he refused to join the union?





MR. BATCHELOR: No, sir.

MR. JACKSON: In London?

MR. BATCHELOR: In London, no. That is in the Retail, Wholesale and Department Store Union. They have a majority of the hotels in the City of London.

MR. ROWNTREE: Are they affiliated with you?

MR. BATCHELOR: No sir. Well, they are affiliated in the master family.

MR. ROWNTREE: They are part of the three thousand.

MR. JACKSON: Are you in the Hotels working in London?

MR. BATCHELOR: No, sir. We have no bargaining unit in existence in any part of the City of London.

MR. MACAULAY: What do you mean by the "master family"?

MR. BATCHELOR: That is the C.L.C.

THE CHAIRMAN: One question again, you referred to a quote from the judge in coming to his conclusion, that if it had not been for the instance in the Coffee Shop he could have done the opposite to what he did. What was it that happened in the Coffee Shop?

MR. MACAULAY: "Tune in tomorrow".

---(Laughter)

MR. PERSSON: There was a matter of some of the waitresses - -

THE CHAIRMAN: What did the judge say about it?

MR. PERSSON: I am referring to it, just a moment.



We have to state what one of the witness for the Council says in all fairness. Here is one witness Rena Oudkerk who said

"that she was at the Coffee Shop when Mrs.

"Noel returned following the hearing. She

"said that she came back and the girls wouldn't

"speak to her. She - -

---(that is, June Noel)

"had joined the Union and didn't tell them about

"it. Mrs. Oudkerk said that Mrs. Noel never

"said that she joined the Union and that she

"reached the decision the day Mrs. Noel went

"to Toronto. She said that Maureen Lewis

"influenced her. Mrs. Oudkerk denied being

"influenced by Mrs. Purdy or Mr. Carruthers.

"Apparently there were some feelings between

"Mrs. Oudkerk and Mrs. Noel regarding the

"former's husband. Mrs. Oudkerk said that

"Maureen Lewis started the idea because when

"Mrs. Noel came back from Toronto the girls

"were not very happy about it and they weren't

"going to keep her up. Maureen Lewis told her

"and the other girls not to speak to Mrs. Noel.

"Asked about the Notice which was posted

"Mrs. Oudkerk said that Mrs. Purdy told them if

"they didn't want it - - "

-(that is, wanting the Union)



"just to send a letter that they didn't want  
 "it. This was said in the Coffee Shop during  
 "working hours. Asked whether she could recall  
 "Mrs. Vermeer telling her that the instructions  
 "were not to have anything to do with June she  
 "said that she didn't recall and would neither  
 "admit it nor deny it.

"Maureen Lewis said that on the morning  
 "after Mrs. Noel returned from Toronto the  
 "girls talked among themselves. Before the  
 "hearing as far as they knew Mrs. Noel didn't  
 "want it. After she returned Maureen Lewis  
 "decided she didn't want to speak to Mrs. Noel  
 "any more and most of the girls agreed with her.  
 "She told Mrs. Purdy she was going to do this.  
 "She said that Mrs. Purdy didn't speak to her  
 "about it. Maureen Lewis said that when Mrs.  
 "Noel came back two or three of the girls con-  
 "tinued to speak to her but the most of them did  
 "not. She said that it was not the Union matter  
 "but the fact that Mrs. Noel made them believe  
 "that she hadn't joined the Union."

THE CHAIRMAN: Is that all that happened in the  
 Coffee Shop?

MR. PERSSON: What it leads up to. There is an  
 additional dispute as to whether one girl should be in one  
 station or another girl should be in another station. They  
 had no hostess on the job this morning. I believe you should



have supervision to allocate stations. She tells one girl, "You go ahead and take that station" for instance and they had some argument or discussion. I wasn't there.

THE CHAIRMAN: Did she tell Mrs. Noel to take a station and she refused to take it?

MR. PERSSON: No, in the absence of the hostess, allegedly Mrs. Noel asked another waitress to take some station which she has no business to do because she is not the hostess. They got into a quarrel over it or discussion, and that was the actual case book on her action, and her card is pulled, she is fired, for causing a disturbance.

THE CHAIRMAN: All right. Page 4, gentlemen.

MR. MYERS: Let me ask this question. When people are dismissed for Union activity and suffer loss of wages they have a good cause of action in Division Court, Civil Court, and one which is probably much less expensive and less troublesome to process than appearing before the Board.

MR. BATCHELOR: If I may answer your question, sir, I don't believe we should have to take our problems to the Civil Courts when we have a Labour Relations Board to which to take our troubles.

MR. MYERS: I was thinking of the man who lost a hundred dollars in pay. I just suggest that he could sue in the Division Court.

THE CHAIRMAN: I think his right of action would have been taken away in the settlement that was made.





MR. MYERS: Maybe. Then there is another thing. You have said that at one time a vote was ordered and you refused to have a vote taken. Why?

MR. PERSSON: Because, as I said, between the time of notice for appearing before the Board, and the actual hearing before the Board, all the employees who had joined our Union sent in withdrawals from the Union, the reason being that they got \$9 a week increase without having to be members of the Union, that is all, and that is too late for me to agree to a vote. The damage was done.

THE CHAIRMAN: I think you have made your point. Page 5, Freedoms. This is the 24-hour per week business which we have already discussed. Page 6, Recommendations to Amend Freedoms.

MR. YAREMKO: Mr. Batchelor, I think in a way it can be related to this section on 5 and 6. Do employers turn to your Union for employees? That is, supposing a tavern wants a bartender or a hotel wants a waitress, do they turn to you and say "We have a position here available. Would you send somebody down?"

MR. BATCHELOR: Occasionally, sir.

MR. MACAULAY: Could I ask this under the heading of "Freedoms". Do you have any closed shops?

MR. BATCHELOR: No, sir.

MR. MACAULAY: You don't.

MR. BATCHELOR: No, sir.

THE CHAIRMAN: Page 7, Conciliation.



MR. MACAULAY: Do you have any Union shops?

MR. BATCHELOR: Yes, sir. Union shop, modified Union shop, check-off in some instances.

MR. MACAULAY: So a man to be employed in that place would have to be a member of the Union.

MR. BATCHELOR: It would be a condition of employment, sir, that a person would have to become a member of the Union within X number of days. That is not in all our agreements, mind you, but I would say safely, I would imagine that in the province 85 percent of our agreements would contain full Union shop provision.

MR. MACAULAY: Do you ever make any effort to require -- where you don't have a Union shop -- the balance of the plant to join your Union by what would be, I suppose by a secondary boycott, that is bringing pressure on them one way and another to join your union.

MR. BATCHELOR: No, sir. We have never brought pressure to bear on people who are not presently members of the Union, although I may say this in answer to your question. In a couple of instances I believe some of our Union have what is known as the Rand formula, and I think Mr. Kitching here has had cases for the Rand formula.

MR. KITCHING: We have the Rand formula in the Elliott Lake Uranium Mining District where we cover Crawley-McCracken employees in a substantial number of points.

THE CHAIRMAN: Do you look after the Hotel there too? There is only one beer outlet which I understand



is the biggest in Ontario, if not in Canada.

MR. MACAULAY: Another licence has been granted since.

MR. KITCHING: Construction has been granted for a new Hotel. The Algoden Hotel was organized by the workers.

MR. MYERS: What is the wage?

MR. BATCHELOR: Their wage is according to the section involved. There are different levels. You have hotel, beverage room, waiters, and lounge waiters.

MR. MYERS: What would they get?

MR. BATCHELOR: It would vary from \$32 to a maximum of \$50 a week for hours of work anywhere from 40 hours up to 48 hours.

MR. JACKSON: And \$100 in tips.

MR. BATCHELOR: Sir, with all due respect to your question, we are not engrossed in that element.

MR. MacDONALD: On page 7, the reference to excessive flexibility granted to Conciliation Officers, is that on the time limit proposition?

MR. BATCHELOR: It is with reference to the time limit provision, Mr. MacDonald. I may say that the service that our affiliated unions receive from the Department is extremely good. We have no qualms with the Department of Labour in the exercising of conciliation procedure. But I might say that once a case is in the hands of the Conciliation Officer that is where we find the extreme delays have taken place.

Now, as a classic example we had the occasion just





last week in the City of Oshawa where a Conciliation Officer convened a meeting and the meeting could not continue because of the fact that the president of the Oshawa Hotel Association was preoccupied in a convention of the Ontario Hotel Association. So when the Conciliation Officer said to me that he would have to convene another meeting, I stated that as far as I was concerned this meeting should take precedence over any Convention that this president has to attend, because of the fact that he is obligated to the body of Oshawa Hotels to make decisions on their behalf. Nevertheless we can't turn around and put the blame on the Conciliation Officer's shoulders because of the fact that the president of that particular Association was not there.

MR. METZLER: Mr. Chairman, in that respect I think in all fairness it should be said that the same consideration might be exercised in respect of the trade union representatives. They have an annual conference of the Canadian Labour Conference, and we might as well give up any thoughts of scheduling meetings for the week that the conference is in train because the representatives and the delegates of that conference want to get to it, and we recognize the necessity of trying to accommodate them.

THE CHAIRMAN: Lawyers from time to time have to impose on those opposed to them in their setting of the case for the same reason. It is not confined to you.

MR. BATCHELOR: Mr. Chairman, don't misunderstand that. I say this, that if the president of the association had extended the courtesy to the Department



of Labour and stated that he would have been unable to attend the meeting of January 20th, that he was on call for the Ontario Hotel Association Convention, we would have had no qualms at all. The fact is that we were in a meeting for approximately four hours and then we finally get to the meat of our deliberations and the conciliation officer was stymied because of the fact that it would necessitate the presence of the president of that Hotel Association. We are not stating that he doesn't have to be on business also. He definitely has business to be at the Convention.

THE CHAIRMAN: From time to time these postponements are made by mutual consent.

MR. BATCHELOR: That is true.

MR. PERSSON: Mr. Chairman, I would like to refer to three cases. It would only take me about three minutes to give you an idea of what is going on. Mario's Restaurant in Windsor, last year we applied for conciliation services on the 11th of April. On the 25th of April they were granted. On the 26th, which is the next day, we had a conciliation officer appointed. Couldn't have got it any faster. Then we negotiated for a few weeks and on 30th of May we then had the instructions from Minister Daly to set up a Conciliation Board.

THE CHAIRMAN: There was no undue delay there with the conciliation officer.

MR. PERSSON: No, just a minute, I am coming to it, why are breaking down the procedure. On July 12th the



Board was completed. We had set it up then. The Board sat on July 31st. Then on the 10th of September we got a report from the Minister of Labour but in fairness, the Minister of Labour stated in the letter that he had just received the report from the judge.

THE CHAIRMAN: What about the other two members of the Board, how many people?

MR. PERSSON: Yes, that was true, the Minister of Labour had received three reports. They all got sent in together by the Chairman I understand.

THE CHAIRMAN: When did the representative of the Union send in his report, how long before the judge forwarded it to the Minister?

MR. PERSSON: I can't answer that.

THE CHAIRMAN: It is very important to know that. It can't have been a delay of anybody but the representative of Labour or the representative of Management or the Chairman or all three combined.

MR. PERSSON: Yes, if I may respectfully submit, the only reason I am bringing this up is my feeling that somebody in the Department of Labour should supervise and keep track of these things, what is going on, to see that they are being expedited. As business agent I am in no position to tell a judge if he is delaying his decision; I am in no position to go after the company nominee if he is delaying the procedure there. I believe that comes within the Department of Labour.



THE CHAIRMAN: You take a Labour representative like Mr. Drummond Wren who may sit on 40 Boards and be a representative on 7 Boards functioning at the same time. It is an impossibility that he should be able to attend every one of the Boards in time to get his report in. The same with the representatives of Management.

MR. PERSSON: I submit respectfully, sir, that if the Labour Department find one man is being saturated with work, say, I wanted Mr. Wren as my representative, I am only submitting his name as a recommendation, and I think the Board, knowing of his activities, should limit him in his work. If he is not able to do it expeditiously he should not be able to be appointed.

THE CHAIRMAN: No doubt you would get in touch with Mr. Wren beforehand to see whether he would accept. He has got to be big enough to tell you "No, I can't accept, I am saturated".

MR. PERSSON: We had the three cases here where by the time we agreed to conciliation it takes anywhere from three to five months to get agreement, from the date that the conciliation officer is appointed.

THE CHAIRMAN: That might help but it might be done by the consent of those on the Board.

MR. PERSSON: I have never consented, no, but, you see, we are in no position to give orders to a Chairman or any representatives, and the Board we feel comes under the jurisdiction of the Department of Labour. I am respectfully submitting that for your consideration.







THE CHAIRMAN: I grant you you have got some cause for complaint there have been many times - -

MR. BATCHELOR: Mr. Chairman, if I may, in addition to the representations made by Mr. Persson, in my own particular unit we have always applied for conciliation officers immediately upon the expiry date of our agreements which is July 1st. In the past three sets of negotiations we have taken a length of time amounting to approximately eight months on each occasion and we haven't got to the Board, this is while in conciliation.

Now, in this particular series of negotiations we filed the application for conciliation services on July 7th, and yesterday we had our first meeting before a Conciliation Board, which is January 28th, which is approximately, as I say, seven months from the time of filing the application for conciliation to the time that we have had a first meeting of the Conciliation Board.

THE CHAIRMAN: Who was your nominee?

MR. BATCHELOR: Our nominee was Mr. A. F. McCarthy, former president of the Ontario Provincial Federation of Labour.

THE CHAIRMAN: Was he able to act? What was the reason for the delay?

MR. BATCHELOR: Actually speaking we can't point to the reason for the delay, although the judge the Minister of Labour appointed to act as Chairman, I would imagine he has been pretty well booked up and there are only certain



dates on which he could possibly grant. However the fact is this, that irrespective of the procedure that we must pursue, we still feel that the Conciliation procedures - -

THE CHAIRMAN: Too slow.

MR. BATCHELOR: And Conciliation Board procedures could certainly be streamlined to give a little more effectiveness.

THE CHAIRMAN: We have got these representations from several - -

MR. BATCHELOR: I understand that.

THE CHAIRMAN: Page 8, gentlemen - - "Recommendations to Amend the Conciliation Procedures". Page 9 - - "Unfair Practices". Page 10.

MR. WREN: Who subjected you to this unmerciful interrogation you refer to on page 10?

MR. BATCHELOR: Mr. Chairman, I don't wish to mention names, but we have made statements in the brief and we are prepared to substantiate those statements.

MR. WREN: Was it the Board or counsel for Management or - -

MR. BATCHELOR: No, no, it was employers.

MR. WREN: Employer's counsel.

MR. BATCHELOR: The employer interrogated the employees.

THE CHAIRMAN: Employer's counsel wouldn't submit any of them to unmerciful interrogation.

MR. BATCHELOR: Sir, the reason we used that



adjective is because of the fact that these people were newly arrived immigrants. They had been out to the country no longer than a period of a year and a year and a half and lived on the property of the people for whom they worked. As I say, we have not tried to exaggerate in the course of this brief, that is a statement of fact, sir.

THE CHAIRMAN: Page 11. We have already dealt with this aspect. Page 12. Page 13, the recommendations at the bottom of the page. Page 14.

MR. YAREMKO: On page 14, Mr. Batchelor, the very last sentence,

"We have been alarmed at the many incidents

"of the courts and the legal profession in

"general regarding this legislation with contempt".

What do you mean by that?

MR. BATCHELOR: As I was endeavouring to explain, sir, in our estimation far too many cases have been taken out of the Labour Relations Board and brought into the Civil Courts for the flimsiest of possible reasons in our estimation. We could be wrong on this but we state this and I think we have made our position quite clear before your Committee sir, that matters pertaining to Labour Relations should remain the jurisdiction of the Ontario Labour Relations Board.

THE CHAIRMAN: Yes, but if it is found that the Labour Relations Board had no jurisdiction under the Act to deal with the matters which are the ones, I understand, that have been taken to the Court, what about that?



MR. BATCHELOR: That is the question, sir. We feel this, that the Labour Relations Board is composed of such people that in our estimation they do not exceed their jurisdiction.

MR. MACAULAY: Oh dear.

THE CHAIRMAN: That would be a lovely situation if it existed, but unfortunately in all these tribunals it does happen occasionally that no matter how good they are, how brilliant they are, how fair-minded they are, they do exceed their jurisdiction.

MR. BATCHELOR: Mind you, Mr. Chairman, and members of this Committee, I might say that we have never been affected to the best of my knowledge, none of our Unions have been affected with reference to Section 69.

THE CHAIRMAN: You are agin it in principle.

MR. BATCHELOR: We are agin it in principle because we think that when an employer can find a loophole to take it out of the Labour Relations Board and bring it into the Civil Courts, that he is going to take full advantage of that type of use.

THE CHAIRMAN: Labour might well be advised to have the same attitude.

MR. YAREMKO: How many cases of that kind have there been, are you aware of in the last five years?

MR. BATCHELOR: Only from what we happen to read in the papers from time to time, but sometimes, and not so much in small industries but in a larger industry the employers





use that means of escape in my estimation as delay to hold up some sort of procedures.

I recall specifically the case, I believe, of the Canadian General Electric, the time study people, which raised quite a bit of uproar so to speak. They took it from the Labour Relations Board. They stated at that time that the Labour Relations Board exceeded its jurisdiction by stating that these people were appropriate for collective bargaining. Then they eventually took that case into the Civil Courts.

THE CHAIRMAN: What happened to it in the Civil Courts?

MR. BATCHELOR: I couldn't say, sir.

MR. YAREMKO: Mr. Batchelor, are you of the opinion that when some person takes an appeal to the Court from a ruling of a Board that that is treating legislation setting up that Board with contempt in doing that?

MR. BATCHELOR: Well, we feel that they are showing utter disrespect for the existing legislation of our Labour Statutes.

THE CHAIRMAN: No, no, no. We have the greatest respect for it and we hope to improve it, but the fact that it appears in Court and decision of a Labour Board is questioned because of the lack of jurisdiction does not mean that either the legal profession or employers or employees have contempt for it.

MR. BATCHELOR: Maybe we put too much faith in the Labour Relations Board.

THE CHAIRMAN: I don't think so, but they are



not infallible and occasionally they make mistakes.

MR. PERSSON: The thinking is when we have been discussing it among ourselves, that we think the Department of Labour, it has been their function for a good many years. We are dealing with one of the most important matters in this province. Now, if there are any improvements to be made we agree that there should be changes, because if the law is not correct now certainly you have to go to court to get the thing rectified and interpreted, but we should have such legislation that Labour matters will be confined to Labour Department. That is my opinion, I could be wrong.

THE CHAIRMAN: You can't have perfect legislation in any field. What we may think is good a large number of people may think is not good. That is why you have courts to settle those matters and put them right.

MR. PERSSON: Isn't it also right that we had these meetings for the purpose of bringing out what we think can be improved upon?

THE CHAIRMAN: Surely.

MR. PERSSON: To keep certain cases out of the court in the future.

THE CHAIRMAN: I don't think you can ever take away a man's right to go into court if he wants to go.

MR. PERSSON: No, I agree.

THE CHAIRMAN: Page 15 - - "Changes of Legal Entity". Page 16. Page 17 - - "The Labour Relations Board". Page 18 - - "Conclusion".



MR. MacDONALD: I am a little curious as to the reasons and the purpose you feel might be served by these private sessions with the Committee in the light of the kind of session we have had this morning, in which we have delved into practically everything that came into our minds. Do you think that it is possible that some representatives of Labour do not feel free to express their minds and would do it privately and not publicly?

MR. BATCHELOR: Mr. MacDonald, I would like the president, Mr. Kitching, to answer that question.

MR. KITCHING: Mr. MacDonald, Mr. Chairman, first I trust you recognize the fact that this Committee appearing before you are not in the main international representatives. We are rank and file from the grass-root members. Many of us are bartenders, cooks, banquet workers and bellboys you might say. We are on the job today because we are elected annually. We are not appointed, we are all elected annually by our membership, and we are part and parcel of our membership.

We have spent many midnight hours trying to get this brief together, and although you may find some discrepancies in it, I trust that we have endeavoured to do a job for our members.

THE CHAIRMAN: Oh, you have, you certainly have.

MR. KITCHING: Apart from that, sir, we are loyal to our country. We feel that although we are not in a position to express ourselves in the way that we possibly





could, although we have probably no fear of our jobs, nevertheless there are certain things that if emanating from this Committee prior to the Committee hearings which we are in some cases agreeable with; but this is not the time and place, I don't think, publicly in which we could explain ourselves in that particular point, because we are after all under the rulings of our International Union although we are Canadians and there are many many things in which we are directly responsible to our International Union. Yet I do think although we are tied to a large extent personally, we are tied down in committing ourselves publicly, if it is put in the newspapers, and action may possibly be taken against us in any shape or form.

THE CHAIRMAN: By the International Union.

MR. KITCHING: By the International, yes.

THE CHAIRMAN: Well, as much as we sympathize with your position, Mr. Kitching, in that respect, I am afraid that we are not interested in what difference or difficulties may arise between the local and the International Union. If you have anything to say here to this Committee -- we can't control the International -- it should be said publicly. If there is something wrong, where you feel there is something wrong that reprisals might be taken against you because of anything you have divulged to us by the International Union, I say you should say it to us publicly.

MR. BATCHELOR: Mr. Chairman, I wouldn't like Mr. Kitching's statement to be misinterpreted by the Committee.



I may say we enjoy full autonomy in our Local unions throughout this province. We have not had a local in trusteeship -- the last one was taken out of trusteeship about three years ago or four years ago, and that was only in trusteeship for about a year until such time as they could get proper people to take charge. As I say, our International Union has never interfered with our own family at all.

THE CHAIRMAN: You don't want to say anything that might possibly offend them.

MR. BATCHELOR: Naturally. After all we are supposed to be a happy family.

MR. PERSSON: Mr. Chairman, for the record I would have to state this, speaking for myself, I have not withheld any opinions or any statements because I happen to belong to the International Union.

THE CHAIRMAN: I appreciate that.

MR. YAREMKO: Mr. Chairman, just before we conclude this brief there is one item which has not been touched upon about the brief. I would like to ask Mr. Batchelor a question. Has anyone of your Unions ever participated in what is widely called and generally called a secondary boycott?

MR. BATCHELOR: Participated? My particular local union was engaged in a ten and a half month strike just about nine or ten months ago, sir, with the assistance of other unions which brought pressure to bear on the management at that time, and we finally consummated a collective agreement, but we have never appealed -



MR. YAREMKO: What type of assistance did they render?

MR. BATCHELOR: They just refused to cross the picket line.

MR. MACAULAY: What company was this in relation to?

MR. BATCHELOR: I believe it was members of the Brewers' Warehouse.

MR. MACAULAY: What employer?

MR. BATCHELOR: Letros Tavern, 50 King Street.

MR. YAREMKO: Was that the case -- I have this bare skimpy factual knowledge -- was that the case in which pressure was brought to bear on the distributor of beer not to deliver beer to the particular premises, and there was a law suit in which the company was forced - -

MR. BATCHELOR: Yes.

MR. YAREMKO: Would you enlighten us on that?

MR. BATCHELOR: At the time Letros, through their counsel, obtained a Writ of Mandamus and took the Brewers' Warehouse and Liquor License Board into Court. I think Justice Gale presided at the time and he rendered a decision stating that these people were in effect to deliver the products to these strike-bound hotels, and that is the sum and substance.

MR. YAREMKO: Why did Brewers' Warehouse refuse to deliver?

MR. BATCHELOR: Possibly on general, good trade



union principles, sir.

MR. MACAULAY: What principle is that?

MR. BATCHELOR: To honour and fight a legal strike, sir.

THE CHAIRMAN: What would you say if we were to recommend to the Legislature that secondary boycott should be outlawed in this province?

MR. BATCHELOR: Mr. Chairman, we can't go ahead and dictate or suggest to the Committee.

THE CHAIRMAN: I am not asking you to suggest or dictate. What would your reaction be?

MR. BATCHELOR: Well, in five years, sir, we have only been helped once by a secondary boycott. I might say, sir, that the secondary boycott didn't help us too materially because of the fact that the strike<sup>lasted</sup> a full eight months after the secondary boycott was washed out through the decision.

THE CHAIRMAN: So that in effect you wouldn't care whether the secondary boycott was outlawed or not because it wasn't of any benefit to you.

MR. BATCHELOR: Sir, I say this, that when legislation is enacted to compel people to violate the principles of the movement that they are a part and parcel of, I say that is not good, sir. It is taking away some of their liberty in my estimation.

THE CHAIRMAN: What about the union that is not on strike, and the company prevented from delivering its product to a firm that has to be struck although that union,





that secondary boycott, the people who are conducting it have actually no direct concern in the strike, but in the meantime this fellow is being put out of business. Do you think that is fair?

10

MR. BATCHELOR: It seems to be a little iniquitous sir.

THE CHAIRMAN: Of course it is iniquitous.

MR. BATCHELOR: But I might say this as an addition to that. We contend this, that as far as we are concerned we preach to our affiliated local unions that they should be law-abiding, that they should go ahead and complete the lawful process as laid out in the Labour Relations Act. After they have expended all the lawful processes at their disposal, then they should fight the good fight, so to speak, and go on and muster as much support from the rest of the movement as they can possibly and humanly gain.

THE CHAIRMAN: Is there anything in the Labour Relations Act that specifically permits a secondary boycott?

MR. BATCHELOR: Well, sir, if any of the legal profession present can find what is the interpretation - -

MR. MACAULAY: Have you any opinion as to whether there is anything in the Act?

MR. BATCHELOR: In my reading of the Labour Relations Act, it does not mention directly secondary boycott.

THE CHAIRMAN: So that it is not included in the provisions.



MR. BATCHELOR: It is not included.

THE CHAIRMAN: This is the Act, you want to abide by it.

MR. MacDONALD: It is not forbidden, Mr. Chairman.

THE CHAIRMAN: I know it is not forbidden.

MR. YAREMKO: Mr. Batchelor, if the principle so widely accepted by the trade union movement of not crossing a picket line comes into conflict with the principle that individuals and groups should adhere to their contractual obligations -- because that is a principle that is widely accepted too -- sometimes those two principles come into conflict and then which principle in your opinion should be upheld?

MR. BATCHELOR: That is a contentious question you are throwing at me, sir.

THE CHAIRMAN: That is putting him a little bit on the spot.

MR. BATCHELOR: Putting me right in the centre, if you don't mind.

MR. YAREMKO: It does happen where those two principles do come into conflict.

MR. BATCHELOR: I would imagine it would.

MR. MACAULAY: Where they come into conflict, Mr. Batchelor, that is where the Act now does outlaw secondary boycotts, because it says that when you enter into an agreement you will honour it. "Honour" means different things to different people, but presumably if you would also say that it is an inviolate principle of Labour that they will



not cross a picket line, then you cannot at the same time not cross the picket line and carry out the contract. You have got to make up your mind which of the two principles you are going to follow.

MR. BATCHELOR: Sir, in addition to what you said there, as far as I am concerned, in the majority of collective agreements between employers and trade unions, there is one clause which stands out. It states that the company will not lock out its employees for the duration and term of the agreement, and on the other hand it states that the union will not cause, condone any strike, stop it, slow down or whatsoever.

Now, I say this, that if an employer should find the difficulty that people are slowing down or stopping or coming out on a wildcat strike, then he has recourse through the Labour Department in accordance with this Labour Relations Act.

As far as we are concerned, and I express my own opinion on this, we want to honour every collective agreement that we enter into between our various employers. If in the event that they were caught in the centre, so to speak, we would have to state to our people of the bargaining unit, that they are honoured to abide by the terms of the collective agreement; but just because we stated that, that does not mean to us that they cannot use their own initiative and abide by possible trade union principles.

That is the issue you are faced with. We can go





ahead and tell them: "Look, you are obligated under the terms of our collective agreement to stay on this job regardless of what happens. You are not involved in this strike. We have an agreement which states that we will not strike or slow down or so on but some of them still may take the bull by the horns, so to speak, and use initial action of their own .

MR. MACAULAY: So that in effect on that basis alone, on this single basis alone, if that defence is permitted to continue forever, that is a complete defence and could be argued in every case and not be disproved.

MR. BATCHELOR: I would say yes, sir.

MR. MACAULAY: Thus, in short, an agreement, when opposed by the principal or secondary boycott, would mean nothing.

MR. BATCHELOR: Well, that is a big bone of contention, as I say, sir, and I can't add any more to it than what I have already stated. We have said that when we entered into a collective agreement it is our utmost intention that we are going to abide by the terms of the agreement.

MR. WREN: When you say "we" have entered into the agreement, who do you mean?

MR. BATCHELOR: We, the trade union, our particular trade union.

MR. MACAULAY: You were differentiating between the officers of the union and the members of the union.

MR. BATCHELOR: That is right.



MR. MACAULAY: But when you sign on behalf of the membership you are signing individually and collectively for each member of the Union.

MR. BATCHELOR: That is correct, sir, but like everything else the Union has so much - -

MR. MACAULAY: Then why can you say that once having done that, that what you would say to your membership as to the honoring of your agreement is of no force and effect?

MR. BATCHELOR: No, I didn't say - -

MR. MACAULAY: Well, you did. You said you couldn't control what he might do on his own initiative.

MR. BATCHELOR: That is true. I might just add for clarification, we state that the people abide by the terms of the agreement, the people who comprise the bargaining unit abide by the terms of the agreement, and when it comes through us we are their paid officials, they are supposed to respect that. Furthermore they are supposed to respect the terms of the collective agreement which governs their day-to-day work.

MR. ROWNTREE: Don't they ratify - -

THE CHAIRMAN: Wait till he finishes.

MR. BATCHELOR: The fact is that notwithstanding the fact of our wishes, notwithstanding the fact of our by-laws, notwithstanding the fact of the collective agreement, individuals will still persist to go ahead and take action on their own initiative.



THE CHAIRMAN: You have your sanctions then: "We will expel you".

MR. BATCHELOR: The fact is this, where we find these people are working in violation of the collective agreement or have committed some act ~~in~~ violation of the collective agreement, then we have remedies for it through out international constitution. They can be brought up before the union and tried in proper procedure.

MR. MACAULAY: Did you ever do that?

MR. BATCHELOR: No, sir, for the simple reason that we haven't been involved in anyone walking off the job or slowing down or anything like that. I might say, and I don't say this with any bouquet of roses at all, but our affiliated unions in this provincial council have by and large been pretty amenable in their dealings in respect to the laws.

THE CHAIRMAN: I ~~think~~ so too, and we wouldn't get along without the members down at the Royal York Hotel.

I think Mr. Batchelor and Mr. Perssons and the other members of the delegation, you have presented this brief very favourably and very fairly, and while we cannot agree with all of your contentions you can be sure that they will receive very careful consideration in our deliberations.

MR. BATCHELOR: Thank you very kindly.

THE CHAIRMAN: On behalf of the Commission I would like to ~~thank~~ you very much.



THE CHAIRMAN: Would you gentlemen care to introduce yourselves to this Committee?

MR. YOUNG: The General Secretary of the National Council of Canadian Labour, Mr. Clive Thomas. Myself, J. Young, President of the National Council of Canadian Labour. Mr. William Sye, President and Mr. Murphy, Secretary of the Canadian Construction Workers' Union No. 2. Mr. Chatfield, who is the National Council Representative for this district.

THE CHAIRMAN: The manner in which we proceed is that the brief is to be read and you submit your delegation to questions. You can sit down to read the brief if you feel easier that way and also when you are being asked questions.

MR. YOUNG: Mr. Chairman, I should first of all like to express our appreciation for this opportunity to present a brief on a matter of extreme importance and concern to the Union.

---(Mr. Young read the brief.)

THE CHAIRMAN: Thank you very much. Now, gentlemen, is there any question arising out of page 1 of this brief?

MR. ROWNTREE: Is the effect of this brief, Mr. Young, to raise the problem of jurisdictional strife within the Labour Movement itself?

MR. YOUNG: Frankly I don't know whether it would remove the jurisdictional strife from within the movement if the Act is changed, but at least it should, I would





think, more or less give a directive and eliminate some of the jurisdictional disputes within organizations themselves.

MR. ROWNTREE: I am interested in that because the question of any Government attempt to regulate the internal operation of the Labour Movement itself presents some rather interesting problems.

MR. YOUNG: I quite understand that, sir.

MR. ROWNTREE: The need for it would appear to be obvious especially in the craft unions or where builders' exchanges are concerned. Would you go along with me -- if you don't wish me to pursue this, Mr. Chairman, I am not taking it page by page but I think the principle is apparent--

THE CHAIRMAN: At the moment what concerns me is whether this brief deals with anything which has been referred to us as a Committee. Are we going to look into the internal workings or the internal complications of the unions? Have we any right to do it under the terms of our reference?

MR. WREN: They were referring to Section 33.

THE CHAIRMAN: Yes, 33 (1) (a). They suggest that this Section should be amended so that it will apply only to workers directly employed by an employer, or to employees for which a union has bargaining rights, and not to the employees of subcontractors doing work for the main employer.

MR. MacDONALD: Mr. Chairman, it seems to me that we have to take a look at both sides of the picture here. I have forgotten which Union it was that came before us that made



representations to the effect that their bargaining unit was in effect being destroyed by the employer by sub-contracting work/out which had been, in their experience, part of the original bargaining unions' activities; and that therefore they raised the question of the wisdom or the necessity and the validity of the union being able to extend its jurisdiction to include the sub-contractors, because in fact it meant it was only including people who had been in their bargaining unit for quite some time.

MR. YOUNG: I believe, sir, if I am right, you are merely stating it on the basis of the craft union.

MR. MacDONALD: No, I am not. I have forgotten which union made this representation. It must have been the Steelworkers or Mine Mill and Smelter Workers, with regard to a mine that originally had a group of employees doing a certain variety of work, and then they in effect, so the representation was, circumvented the collective bargaining agreement by sub-contracting out certain portions of that work.

In some instances a man who was a member of the original bargaining unit suddenly found he was no more employed by that employer at all; as of such and such a day he became an employee of another company that was doing work in the same place but on a sub-contract basis.

Their contention was that this was the violation of the original contract, and that they could have the right to expand their jurisdiction to include sub-contractors.



It seems to me -- and this bears on the point you raised, Mr. Chairman -- I don't know how a legislature or the Act can step into this thing. It seems to me it is one of the developments in the trade union movement where you have had a certain set of experience and where other unions have had the opposite kind of experience, and it has just got to be worked out on the free basis of collective bargaining.

MR. ROWNTREE: Doesn't it go a step further than that? I could understand that perhaps if in the one case the one company was a union operation and the other was non-union. We are talking about a situation here where both the company and the sub-contract had the union agreements.

MR. YOUNG: Quite right, sir.

MR. ROWNTREE: So the innocent person might be employer or - -

MR. YOUNG: If I might further contend, we are not the only ones affected by it because the C.I.O. has run into it now, because of the fact that there is (this harsh word) monopoly.

THE CHAIRMAN: Aren't they united under the C.I.O.-- A.F. of L.?

MR. YOUNG: They are still having the same trouble.

MR. WREN: Are they not making some progress towards arbitrary jurisdiction?

MR. YOUNG: My understanding -- I did discuss this matter with the officers of the Hod Carriers and Common Labourers Executive. True, they are quite happy in their





position, they have got nothing to fear, they are already in the field, but they had no intention of cutting the cake.

THE CHAIRMAN: What were they, A.F. of L. or C.I.O.?

MR. YOUNG: A. F. of L.

THE CHAIRMAN: Are you C.I.O?

MR. YOUNG: No, we are National Council. We are strictly a Canadian Organization.

MR. JACKSON: What do the workers themselves feel?

MR. YOUNG: That is the point. Of course they have got the choice of either supporting the principle at the expense of their bread and butter so that they would merely have to fall in line, but they have tried to stem it up. But you may be forced to go along with it because of the fact that the companies are in the position that either they are not going to get the contracts to employ the workers or else fall in line with the condition that exists between the general contractor and the Hod Carriers and Common Labourers.

Naturally we do know of jurisdictional disputes within groups. That has been going on for thirty years, to my knowledge, I can state it authoratively, back as far as 1927 or 1928 when it was the plumbers and steamfitters. There were fist fights in those days right on the floor, so that I am very familiar with whether a plumber does this or the steamfitter does that and that goes all the way through.



In this particular instance, I think, gentlemen, because the field has expanded I can say so, I can go along to a certain extent with the crafts, because we have to protect our own particular trade; but these people are just looking after these people landed from Europe working out there shovelling sand or working on the highway and they are going to pay whatever fee is laid down, whether they belong to another organization or not. The Hod Carriers are acting quite honestly and within their rights, but we feel that there should be some directive in there that they just can't arbitrarily or discriminately force people into paying dues and they should have to go out and organize them the same as anyone else.

MR. WREN:           There is another aspect of it, Mr. Chairman, which is rather important in this Committee. Up north we had strikes in progress up there mentioned here, where one union -- and I am not decrying the merits or demerits of any union -- where one union had a contract on the pipeline operation which was freely negotiated and collective agreement entered into, to specify what they do, the whole construction policy of the pipeline. Then subcontractors came in and were represented, different employees were represented by different unions and called a strike and effectively stopped the work. There is some public interest involved there. I don't know just how much.

THE CHAIRMAN:       There is no doubt public interest is involved, and I sympathize with Mr. Young's problem. What concerns me is have we under the terms of reference - -



MR. WREN:           Getting back to what this former delegation brought to our attention, that is this: When a union negotiates a master agreement with an employer, just how far, to what extent do we reach out in insisting under the law that this collective agreement be adhered to by both sides?

MR. THOMAS:        Mr. Chairman, with Mr. Young's permission I would just like to try and answer the point that you raised initially and mentioned just a moment ago.

The purpose of this brief is not to in any way bring out for your consideration the internal affairs of a particular union, in this case the Hod Carriers. What they do in their internal affairs is their own business, we recognize that.

We are strictly making this submission on the basis of certain collective bargaining operations which have effect in our affiliated groups, and on the basis of a certain clause in the Labour Relations Act.

Actually, very briefly, what this is all about is simply this. Our Union signed a collective agreement with a company and in due course that agreement was to cover not merely the workers in a certain plant repairing construction equipment, but individuals in that plant that in the summer come into the field and do construction work. Now, as far as I am aware, that agreement was signed and negotiated prior to an agreement that subsequently was signed and negotiated by another union in the Hamilton area, the Hod





Carriers and the Builders' Exchange covering all or a great many at least of contracting employers in question.

The situation that arose was that our members in the field suddenly found that under the terms of an agreement which covered not only the Union and the employers out subcontractors of those employers, our members found that they were on the horns of a dilemma in this subcontract job for the Foundation Company of Canada being done by Associated Quarries; they found as a condition of work on that job that they must now pay the dues of the Hod Carriers, because out of the Labour Relations Act there is nothing to prevent an agreement from being extended to subcontracted labour.

The result has been that our members are in the position where they almost have to adhere to the Hod Carriers because they apparently have the jurisdiction although our agreement pre-dated as far as our members are concerned the other agreement.

Now, we are simply saying that Section 33 (1) (a) which makes it permissible as a condition of employment to require employee to be either a union member or to pay the dues of a union, be restricted to the actual employees of an employer regarding which an agreement may exist between a union and the employer.

In other words, these employees by due process of the Labour Relations Act, in some way or other, have indicated that they want that Union that's fine, but then, if by mutual agreement or signed agreement between the Union and the employer or group of employers, the provisions of





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these agreements and the obligations are extended to sub-contracted workers, employees of other companies, they may have had no choice whatsoever or may not have had even the wish to come under the provisions of the main agreement, as apparently is the case in Northern Ontario where spontaneous strike occurred and then another Union came in and took up their cudgels for them.

We feel there is an unfair situation there and that the 33 (1) (a) should be limited to employees, direct employees of that employer or employees for which a Union has bargaining rights.

THE CHAIRMAN: That is, with the company with whom they are working.

MR. THOMAS: Yes, and these subcontracted workers in their position, if the same union wants to go to these subcontracted employees and organize them and sign them up and get bargaining rights for them with their respective employers, fine.

THE CHAIRMAN: It is open season. I may find it to be very sympathetic with it. What do you think, Mr. Walsh, do we have power?

MR. WALSH: I would say on the 33 (1) (a), and then I asked Mr. Perkins about the scope of the reference and he said it was to inquire in all its aspects into this Labour Act and that is one of the matters. I would say you had jurisdiction after you had considered the matter carefully.



THE CHAIRMAN: Well then, gentlemen, here you are. Personally I am very sympathetic to the proposition. I think it is a very vicious thing such as has happened. This has been very ably presented. I think you have made your points and made an impression on this Committee. Any further questions arising we will be glad to hear them. If not, we understand what you want now and you can be sure that it will receive very, very careful consideration from the members of this Committee.

MR. SYE: Just one thing, this thing has further spread in the Toronto area also.

THE CHAIRMAN: We don't care whether it is in Toronto or Timbuctoo. If it exists we are going to consider what you have said about it very carefully.

MR. YOUNG: Mr. Chairman, Mr. MacDonald asked a question -- I don't <sup>KNOW</sup> what it was -- but it brought up a point Mr. Thomas would like to answer.

MR. THOMAS: I would like to refer to Mr. MacDonald's point. I believe the point was, Mr. Chairman, that in some cases the company will seek to limit the effect of a union's agreement by detaching certain groups of workers or by subcontracting certain work. There is no question in our minds that that also is from a trade union standpoint an iniquitous situation, there is certainly no argument there. But actually, come to think of it, in the case we have brought up, it seems that now in this case a particular union group is trying to reverse the situation to the detriment of our group.



Certainly there is no argument with your point. I don't know whether your point actually ties in with the point we are making here.

MR. WREN: Yes, it does. What Mr. MacDonald is referring to, I know of a specific instance in the Red Lake area where this particular mine was organized and where in the course of certain progress of development underground some of the management were not too happy about the Union, so they determined that from a certain date they would carry on their developmental work underground on a subcontract basis and they did that. In other words the subcontractors' employees -- and the employees were organized -- were under a different union, and it created no end of confusion.

MR. THOMAS: Possibly that is another problem - -

MR. WREN: It has done a great deal of injury to the organization of the trade union movement because a lot of people in that area are still in the process of general organization and were confused about it.

MR. THOMAS: That is a separate problem that your Committee certainly should consider and consider whether the Act should be amended, but the problem we are bringing up is almost the reverse of that, that the agreement of the company or the employer concerned extends the agreement to cover groups of workers, in the case up north, that were not previously unionized, although now they have adhered to another union, and in our case they were previously - -

MR. MacDONALD: Let us get the facts straight of the case up north. The interesting thing on the case up north--





MR. THOMAS: I was going by a clipping in the newspaper.

MR. MacDONALD: The interesting thing on the case up north -- and this shows that each case has to be examined on its own merits -- is that the men involved are members of the union, the Sawmill Workers.

MR. THOMAS: Yes, I know.

MR. MacDONALD: -- who are now out of work.

MR. THOMAS: Yes.

MR. MacDONALD: And who are hired on the temporary basis by the Pipeline Company for winter slashing.

MR. THOMAS: That makes it all the more similar to the case we are presenting to you, the case of subcontracted workers who had declared their union loyalty and yet who find themselves forced to accept the contractual conditions of another union. I didn't think the two things were so similar.

THE CHAIRMAN: Well, thank you very much.

MR. WALSH: Mr. Chairman, shouldn't the International Hod Carriers be told of this, if they want to make any representations to you and the members?

THE CHAIRMAN: Well, the International Hod Carriers know that we have been in session since last September, Mr. Walsh and it has been advertised. If they care to make representations before the end of this month or indicate their desire to do so, we will be very pleased to hear from them.

MR. THOMAS: They will receive a copy of this brief anyway, I presume.



THE SECRETARY: Could I ask Mr. Thomas a question? I understand your problem is that you have no tribunal to which you could submit your case. You have an argument here between yourselves and another union and there is nothing you can do to settle it.

MR. THOMAS: Our impression is that the nearest thing to, I won't say a tribunal, but a body of some stature that may be in a position to have something done one way or another, is this Committee.

THE CHAIRMAN: Then you want to amend Section 33 (1) (a).

MR. THOMAS: To restrict its coverage.

THE CHAIRMAN: Thank you very much, gentlemen. I assure you that your brief will receive very careful consideration from this Committee.

Anything further, gentlemen, we should discuss before we adjourn? If not this Committee stands adjourned to two o'clock sharp.

---the hearing adjourned to 2. p.m.



--- On resuming at 2:00 p.m.

THE CHAIRMAN: Gentlemen, it is now two o'clock, and I see a quorum. We will hear submissions of District 50, United Mine Workers of America and its divisions in Regions 75, 77, 78 and 79. Submission to be made by Mr. Arthur Williams, accompanied by Mr. J. Olsen and Mr. Gordon Noble.

Now, gentlemen, the procedure we have been following is that the brief be read to the Committee, and then those who submit the brief and are here to support it, submit themselves to questioning by members of the Committee.

Who will present the brief?

MR. WILLIAMS: I will.

THE CHAIRMAN: You are?

MR. WILLIAMS: Arthur Williams.

THE CHAIRMAN: And Mr. Olsen and Mr. Noble. You may sit down, Mr. Williams.

MR. WILLIAMS: I prefer to stand up.

--- Mr. Williams reads entire brief.

THE CHAIRMAN: Thank you very much. Now then we will proceed to deal with this submission, and I would ask the members of the Committee if there are any questions arising out of page 1.      Page 2?

MR. YAREMKO: Mr. Williams, on page 2 -- the introductory paragraphs are given to freedom -- and in



the first paragraph on page 2 you say: "All grades of society enjoy the right to talk, solicit and read whatever they like, whenever they like." Representations have been made to us by management groups that management should have the right unqualified clearly stated in the Act to talk, to express their opinions in respect of union activity in their plants. What would your reaction be to that suggestion?

MR. WILLIAMS: My reaction to that, sir, is it is none of the business of management, and they should not be permitted to interfere with the exercise of this right on the part of the workers. They should be prohibited most strongly in re-writing of the law in this connection than the law presently provides.

MR. YAREMKO: Would your definition of interference include expression of opinion by management?

MR. WILLIAMS: Yes.

MR. MYERS: Why would you debar them from giving an honest opinion?

MR. WILLIAMS: You did inject the word, sir, "honest" opinion. It has been my privilege to appear before the Labour Relations Board on many, many occasions on applications for certification, and I have frequently seen employers come down before that board and give their honest opinion. I put "their honest opinion" in this connection in parenthesis.

I had occasion afterwards to experience from a practical point of view whether such an approach was





honest. I have come to the conclusion that it is hypocrisy, not honesty. The purpose that these people have, and the only purpose that they have is to obstruct, and if possible, prevent their workers joining a union.

THE CHAIRMAN: It has been suggested by some representatives of labour here that they can find no fault with it. You take the view that it is not proper under any circumstances that management should be allowed to discuss with its own employees negotiations that are going on with union representatives?

MR. WILLIAMS: Yes, I take that view, sir.

THE CHAIRMAN: That is your answer.

MR. MACAULAY: Wouldn't you change your statement here that all grades of society enjoy the right to talk and listen and read whatever they like, whenever they like?

THE CHAIRMAN: But in the case of dealing with the union.

MR. MACAULAY: Except on the occasions when you don't want them to.

MR. WILLIAMS: It is peculiar.

THE CHAIRMAN: Very.

MR. MacDONALD: You will have to get used to interruptions from the Chairman.

MR. WILLIAMS: I am used to them. I have experienced them before. I will try not to fall for the bait anyhow.



THE CHAIRMAN: In case Mr. MacDonald might be leading you down the garden path, which he is quite prone to do --

MR. MacDONALD: No, no.

MR. WILLIAMS: Neither you, Mr. Chairman, nor Mr. MacDonald --

THE CHAIRMAN: Any interruptions I make, Mr. Williams, are being made most respectfully, and I would expect from you, as the representative of this delegation, that you will accord to the Chair the same degree of respect that I will accord to you.

MR. WILLIAMS: I will do my best that that is so.

THE CHAIRMAN: Irrespective of what Mr. MacDonald might contrive to express to you in his usual snide way.

MR. YAREMKO: I would not want anything to take place from here on to make you change your views stated in the last paragraph of your brief where you compliment us on our courtesy and patience. We are still courteous and we are still patient regardless of what we say.

THE CHAIRMAN: There are some people in the room here, sir, who have known me quite a long while and know something of my previous history, and they know that I don't usually get hot under the collar.

THE CHAIRMAN: I don't suggest that for a minute. I have great respect for you. I know something of your work, and I think you are very sincere, but we may not necessarily agree with everything you say.



MR. WILLIAMS: I agree.

THE CHAIRMAN: And I think we are free to express our disagreement.

MR. WILLIAMS: Now, in reply to the question about this freedom, this speaking, and so on, whenever you like, and the rest of it, if the employers accorded to the worker the same opportunity I would have no objection.

MR. WREN: Tell me this --

MR. WILLIAMS: But the employer, even today with the Act as it is presently written, will hold meetings during working hours on company premises, and a host of other interfering actions of that kind, but he says we shall not do the same kind of thing.

Why is it right for him to do it and it is not for us. Now, if he will accord us the same right, and it is because I know -- I know it is because he can't have that same guarantee or understanding that prompts me to say let him keep his nose clean as far as interfering.

MR. YAREMKO: Would you go to the other side of the coin, and say supposing legislation were introduced granting the right to the employer to express his opinion, not interfere -- let it remain as it is with all the implication of the word "interfere" -- but to express his opinion provided he expressed his opinion to the employees, not during their working hours and not at the place of employment of the employee.

MR. WILLIAMS: You see if we had that honest





approach I do not think you gentlemen, with very great respect to you all, I do not think you would be sitting here today. It is because we have not got that situation that you are now doing some work for the legislature to try and improve upon a situation that needs improving.

Now, if the individuals themselves, and I go so far as to say this because I don't want it to appear that all the bad apples are in the basket on the other side of the table; there are bad apples in our side too, and I would like to say, although I have no authority to, but I welcome an opportunity of cleaning out the bad apples in our basket. But as long as they are there, we have got to recognize that they are there, and do what we can to see that they don't contaminate the whole thing. It is because of that situation that I cannot go along with you.

MR. MYERS: How can you do it better than by disseminating information and knowledge to everybody?

MR. WILLIAMS: Well, do you believe, sir -- let us imagine perhaps something that may be rather unimaginable to us, if there was a fellow waiting say outside the bank to hold it up and you had a conversation with him; you saw the gun, and you knew what he was going to do, and that his purpose was to hold up the bank, would you believe him he if he said, "No, I am just here waiting for a friend"?

MR. MYERS: Why wouldn't the answer be a secret vote in every case?



MR. WILLIAMS: Oh, but as the Labour Relations Board functions, it is the determining voice as to whether such a vote is held. I have had this experience on the question of the secret vote; we have run against it, and I am happy to say this: we have come up against some employers who are willing to concede union recognition if that be the wish of their employees, and we have said to them, "Well, will you join with us in asking the Department of Labour to take a vote?", and they said, "yes", and such a vote has been held and the Department has stepped in and taken the vote. Those are very refreshing, but they are so rare.

MR. MYERS: Why not have a vote in every case? Why not have a minimum of employees who express an inclination to have a bargaining agent -- just a minimum -- and if this minimum is willing to have a secret vote and both sides are willing, let the truth come out?

MR. WILLIAMS: That is the background, I suppose, of this whole thing. Where we are required to meet employers and employers who are required to meet us, we experience a variety of circumstances, and in most of the instances my experience has been that management does not display too frank an attitude. Maybe it is because of so many of the managers themselves, something new; it is a field they may not be experienced in. I don't know what the reason is, but I assure you, sir, that I can give you chapter and verse. I can name



companies if I like, and I am certain if those representatives of the company came before this Committee to say whether I was telling the truth in this connection, I am sure they would say "yes". Instances where I have spent days convincing, trying to convince management I have nothing up my sleeve; I am not trying to pull a fast one, but in the majority of instances it is like water on a duck's back. It has not the slightest effect.

MR. MYERS: I say why bother talking to management at all? Why not talk to the employees all you like and why not let management talk to its own employees, and let the employees decide by secret vote?

MR. WILLIAMS: Here is a concrete situation that I paraphrased when I used the illustration of the guy at the bank. We sit down and we negotiate a contract with a company and we had a contract with them for many years, and when I met the president of that company -- as a matter of fact if I was meeting the president I would not be confronted with one part of the trouble that I do when I meet the management. Only as recently as last week we had not been able to complete negotiations for the renewal of the contract. We are now waiting for final stages of the conciliation board.

We have had contracts in the past, and this is another contract. They still can't keep their noses out of it. They have gone to a member of the committee and suggested to the committee, to this



committee member -- and if you knew this committee member as well as I know him there would be no doubt about the truth of this because this person does not deal in lies -- this management suggested to the committee member that they could get a far better deal if they just sign the contract and give up the union.

Now, am I to go before that kind of management still believing that they are honest when I know perfectly well, as late as last week, they tried to stick a knife in my back. If that unpleasant situation was not there, if we had more or less the ideal situation that my friend over here was referring to, it would be a much happier thing for everybody concerned. Don't you think so?

THE CHAIRMAN: Anything else on page 2, gentlemen?  
Page 3?

MR. YAREMKO: Page 3, Mr. Williams, again your introductory paragraph was talking of freedoms, and it is just that we have to have a clear conception of the type of freedom we are talking about. At the bottom of the page you interpret the section of the Act, and I quote, "Here's your right to join whatever union you want to join so go ahead and join if you want to..."

MR. WILLIAMS: Yes.

MR. YAREMKO: Now, is there a freedom -- would you go to the other side of the coin and say "Don't join if you don't want to"?

MR. WILLIAMS: That is an angle that employers so often use. When they put out letters, when they have





learned there is an organizing campaign on, oh, sometimes they have said, "In response to requests from some of the employees we want you to know you don't have to join".

We say to the worker in that plant, "You are not compelled to join. You have freedom to choose." Of course we try to encourage them all to join, but so frequently we find, and I can give you chapter and verse of cases that are very much alive with us at this particular moment, where a lot of people in a big plant, for example, while we have the majority signed, there is still a quantity that do not join. I am not going to say, and I know I am going to get in Dutch with a lot of people about this statement; a lot of union people -- may I make a personal observation here, sir?

THE CHAIRMAN: Anything you care to say, Mr. Williams, we will listen to.

MR. WILLIAMS: You see I was brought up in a place where I never knew anything about the union shop or the closed shop or the check-off until I came into Canada. I was brought up in -- I shall say it this way -- in God's Country. They got the harp anyhow, and it is not Ireland. It is Wales. I was brought up in the mines. In the Miners' Federation we never had a check-off, yet everybody was in the union. Everybody was in the union. I would like that situation, but as long as there is this hostility -- and that is the fly in the ointment, the hostility of employers. You see you don't get that.



Maybe it is because of their greater age over there. Maybe we are too young to expect this kind of thing so soon here. As long as we have the hostility we have got to have these counter-balances to the hostility, but as far as I am concerned, I never say to an employee in a plant, "You have got to join." That still is his right. That is why we are using it in this sense here.

THE CHAIRMAN: Anything else on page 3, gentlemen? Page 4? Page 5? 6? Page 7?

MR. YAREMKO: Mr. Chairman, this actually is not a point to do with the merits of this instance in point, but we have a situation here where a specific union is referred to, and then we have on page 7 the quotation in reference -- which could only be linked to the specific union -- in which they say: "...their old, useless, completely corrupt, bargaining agent."

I don't know whether we as a committee ought to permit that to be entered into the proceedings of this Committee.

THE CHAIRMAN: Well, Mr. Yaremko, it is in the brief, and for whatever value is attached to it by the members of the Committee, I don't think we should strike out anything.

MR. WILLIAMS: If there is something offensive to the sensibility of any member of the Committee regarding something of that kind, I would gladly agree to the suggestion that it be stricken out, and I do so in my own copy here.



THE CHAIRMAN: Thanks very much.

MR. MYERS: Why shouldn't there be a right to work clause written into our statute? That would do away with the situation you mention.

MR. WILLIAMS: When I prepared this, sir, I knew I was going to be confronted with that situation, but in our approach as a union, and my preparation of this, what is conceived to be wrapped up in the term "right to work clause" is not involved in this particular submission here.

What we are here saying is that because the Act now says a certain thing, as in Section 33, that that should be administered by the department. Now, it has never been conceived by the trade union movement in Canada that Section 33 involved anything that is popularly concluded in a right to work clause. Because if they did, they would have been advocating elimination of Section 33 long ago.

MR. MYERS: The instance you cite, isn't that what the legislation seeks to guard against?

MR. WILLIAMS: No. I think, sir, with very great respect to you, I think what is popularly conceived to be part or the main advocacy of the right to work clause goes much, much further. You see I am confining my approach on this to what is now in the legislation.

The legislation now says that for ten months you can't do so and so and so, but for two months -- now, I





say that group of people, and we are doing this all the time, when this contract expires and we take the expiration date, and two months earlier, that is the only time you can do anything, but the right to work clause that is being popularly advocated is irrespective of a union shop clause or closed shop clause or maintenance of membership clause. Wherever a person, even on strike or something of that kind, wherever a person evinces or appears to evince a desire to work, that all barriers should be torn down and he shall have the right to go in?

MR. MYERS: How can we protect the man you mentioned on page 7?

MR. WILLIAMS: Pardon?

MR. MYERS: How can we protect the man that you mention on page 7?

MR. WILLIAMS: Well, I think -- the reason I am pausing --

MR. MYERS: Well, I am asking you.

MR. WILLIAMS: -- is, of course, because of this: How can you as ten people representing the Legislature --

MR. MYERS: Making a report to the Legislature.

MR. WILLIAMS: Well, I know I have said I hope this special committee would take such steps as appropriate to immediately right the wrong. I didn't ask this special committee to change any provision which is presently in the Act providing for an inclusion in a contract of a union shop clause. Let that stay. But don't let a union have the opportunity for abusing that in contravention of what the



law says.

MR. MYERS: How can we do that?

MR. WILLIAMS: Making it quite clear to the Department of Labour that even those two months, notwithstanding a union shop clause in the agreement, and insisting to the employer because the wording of the Act at present as it is quoted says, "No employer shall discharge". This employer did discharge.

MR. MYERS: But he had to because they said he could not keep a man on if he wasn't a member of the union.

MR. WILLIAMS: The law bridges two months of that agreement, so that for two months of that agreement that clause is ineffective.

MR. WREN: Is that your interpretation, Mr. Metzler?

MR. METZLER: No, it is not. A contract is a contract, and if it is for twelve months, it is for twelve months. It is not for ten months.

MR. MORNINGSTAR: Can we have an explanation on the bottom of page 7: "...Department of Labour intervened, only to come up with the decision that they could do nothing, and therefore, the case must be considered closed." I wonder if our Deputy Minister of Labour would explain that.

MR. METZLER: What transpired, and I think Mr. Williams will bear me out on this, there was a complaint made by the individual employees in this particular case, that they had been discharged by their employer contrary to the provisions of the Labour Relations Act. A conciliation



officer was appointed by the Department to investigate this situation. He found out that at the pertinent time there was a collective agreement afoot between the employer and the distillery workers calling for closed shop provision, under which if the people were not members of the trade union or were expelled, the employer must discharge those employees.

Now, that is what transpired. We found out that that agreement was in force and that that provision existed. What could the employer do? He discharged them.

MR. YAREMKO: Surely the conciliation officer must have found that they had been expelled for some other reason than solely because they were members of another trade union, because if the conciliation officer found out a man had been discharged solely -- expelled solely because he is a member of another trade union, then the employer would not have the right to discharge him.

MR. METZLER: On that point, Mr. Yaremko, the conciliation officer found that notice had been served on these employees by the union that held bargaining rights that they were charged with certain offences against the constitution of the particular union. A hearing was set up, I understand at Windsor, Ontario, and acting officers of the distillery workers' union were there to carry out the provisions of the constitution. I don't know whether these people attended. My memory does not serve me to that extent -- or whether they presented their situation to the trade union. Whether



they did or whether they did not, they were found to be guilty of the charges preferred against them under the constitution of the trade union.

THE CHAIRMAN: They were found guilty by the union?

MR. METZLER: That is right. Now the question arises how far do you go in the interpretation of the word "solely". There were three or four charges laid against them. The question that comes to our mind is do we have to go into the validity of the charges that were laid against them by their own union?

THE CHAIRMAN: We have no right to.

MR. METZLER: That is the question that is pertinent to this.

MR. YAREMKO: Were those proceedings -- were they public hearings or private hearings?

MR. WILLIAMS: Private.

MR. YAREMKO: You were not present?

MR. WILLIAMS: No.

MR. YAREMKO: Your argument is valid to a certain degree, but only if they had been fired solely because they belonged to another trade union.

MR. WILLIAMS: Yes.

MR. YAREMKO: And they were evidently expelled because of certain other charges of which they were found guilty -- not the charge of belonging to another union, but of other charges.

MR. WILLIAMS: This is the kind of unreality





that enters into a situation that we are so often confronted with. I think that due significance should be taken of the fact that no charges of misbehaviour, no complaints even let alone charges of misbehaviour, had been levelled against these particular people who were fired until and in this precise period of two months when they were campaigning for another union to come in.

Now, unreality occurs in this way, sir, that one of the most difficult things to prove in dismissal cases is that the person was dismissed for union activity. Other reasons are found, and it is the same in this case. Other reasons were tagged on, but the significant thing is that action was taken only when this campaign -- when these people were engaged in this campaign of joining another union.

THE CHAIRMAN: Isn't it a fact, Mr. Williams, that the men or women, whoever they were, had been charged before the union of certain offences, were given the opportunity to appear and defend themselves -- as I understand the usual procedure is -- and they were found guilty in their own union or in the parent organization or whatever it may be? Is that not a fact?

MR. WILLIAMS: Well, you see --

THE CHAIRMAN: Answer that "yes" or "no" without making speeches.

MR. WILLIAMS: Yes, yes.

THE CHAIRMAN: How can we interfere with that?



How can we possibly interfere with the constitution of a union? We can't do that.

MR. WILLIAMS: I am not suggesting that you should, and I wouldn't.

. THE CHAIRMAN: In this particular case you are.

MR. WILLIAMS: No, sir.

MR. MACAULAY: What are you suggesting?

MR. WILLIAMS: What I am suggesting here -- I see you are interpreting my use of the wording of the law here as implying on the basis of the Deputy Minister's statement it can be interference in constitution. I am not approaching it in that particular way at all. In this particular case the people were charged by A, assisted by B.

MR. MACAULAY: Well, we don't know that. That might quite properly be so, but the fact is according to the constitution of the union to which they belong, they were found guilty after being properly tried and charged.

MR. WILLIAMS: Very well, sir. And then A and B hear the charges; they try them, and they find them guilty.

MR. MACAULAY: Isn't that what the constitution provides?

MR. WILLIAMS: And the constitution then goes on to provide something else, and that is that there can be an appeal from the decision.

MR. MACAULAY: To whom?

MR. WILLIAMS: To a higher union authority.



MR. MACAULAY: Was that appeal entered?

MR. WILLIAMS: It was entered five separate times.

MR. MACAULAY: What was the disposition?

MR. WILLIAMS: Not a single acknowledgement one of the five times.

MR. MACAULAY: Can we interfere with that? That has nothing to do with us or this Committee surely.

MR. MacDONALD: May I ask this, Mr. Chairman, is it not a case in the instance of a closed shop, that the conception of what might be done in the last two months just is impossible.

MR. WILLIAMS: That is right.

MR. MacDONALD: This is our conflict. If you have the closed shop so that employment depends on membership, in honouring the agreement, if they are not members management must dismiss them. In effect it is not possible in the closed shop situation.

MR. WILLIAMS: That is right.

THE CHAIRMAN: What do we do? Get rid of the closed shop?

MR. WILLIAMS: Oh, no, no, no, Mr. Chairman. I don't know whether I have sufficiently emphasized this fact of ten months inviolability, but there does come a period of freedom. If it is not there, sir, what you are suggesting, the way in which you were talking back to me seems to give me the impression that all a union has to do to perpetuate itself as the representative of employees is to have a



closed shop agreement and it is there from now until Doomsday.

MR. MACAULAY: There is open season.

MR. WILLIAMS: When is it?

MR. MACAULAY: In the two-month period.

MR. WILLIAMS: If I avail myself of it and I get it in the neck because I think the law says I have got protection, but the Department of Labour says we can't go into the constitutions, and so and so on.

MR. MACAULAY: You can't either.

MR. METZLER: Mr. Williams wouldn't bring this case up today if he hadn't wanted a vote in that plant.

MR. WILLIAMS: I protest against that.

MR. METZLER: There would have been no necessity.

MR. WILLIAMS: Don't get doing that kind of thing.

THE CHAIRMAN: Order, order. Mr. Yaremko?

MR. YAREMKO: Mr. Williams, in the course of our representations, so often it is put up to the Committee that because of the certain qualification as to percentage of membership in unions or the vote, that they should be moved because if the same principles were applied to the members of the legislature they would never be elected, because they wouldn't have the required majority, and the reply would be, well, yes, that is true, but members have to stand for re-election every two, three or four or five years and be re-indorsed. And the answer that has been given





back to us, same thing applies under the law. The union can be de-certified or another one can succeed its place. But your argument on the basis of this would seem to lead me to believe that it is not as easy to de-certify or replace the union as perhaps we might be under the impression that it is.

MR. WREN: Do you ever get to the stage of de-certification?

MR. WILLIAMS: De-certification board --

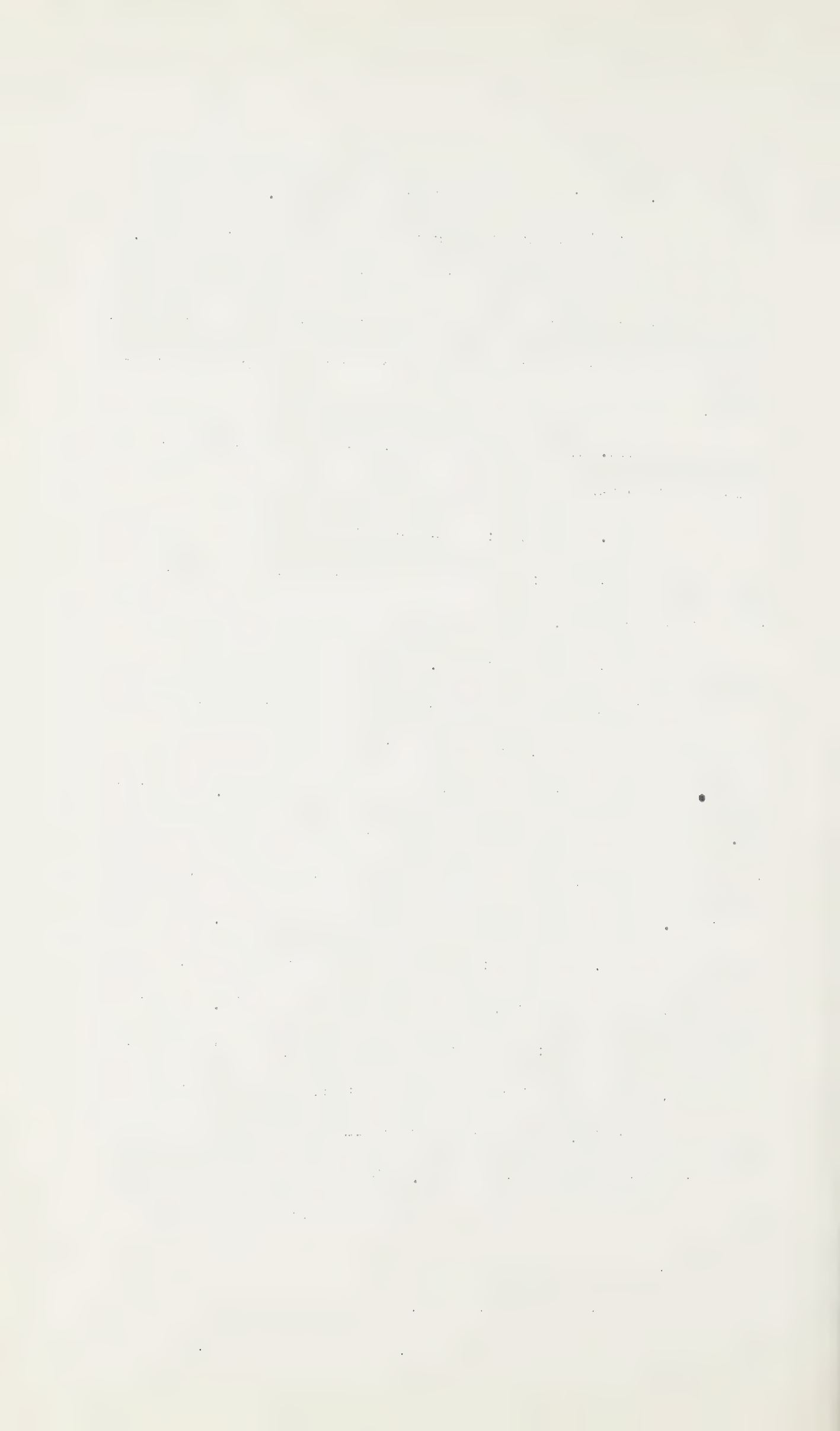
MR. WREN: Did you ever get to that stage? Just "yes" or "no".

MR. WILLIAMS: No. May I make one word of explanation? We have been faced with de-certification. We had one yesterday, and I notified the board because we know we have not the support of the employees, I notified Mr. Brunskill of the board we were not interested in contesting the case, and please don't go around labouring about it. The result is there would be no board.

MR. MACAULAY: I want to understand, Mr. Williams, your position, and I am afraid I don't. Is what you are saying this: where there is a one-year closed shop contract, that in effect is invalidated, or at least set aside -- that is, two months of it -- by the provision of the Act that it is open season. You would help me greatly if you could tell me that is "yes" or "no", if I was right or wrong.

MR. WILLIAMS: Yes.

MR. MACAULAY: Well, now I understand. We can



go on from there.

THE CHAIRMAN: Anything else on page 8, gentlemen?  
Page 9? Page 10?

MR. WILLIAMS: I would wish, sir, and far be it from me to sort of indulge in discussion, but I do wish there would be some further consideration in my presence on this section.

THE CHAIRMAN: We will consider your representations very carefully in our deliberations, Mr. Williams.  
Anything else on page 10, gentlemen? Page 11? Page 12?

MR. MacDONALD: The one new idea, Mr. Chairman, which Mr. Williams may recognize much of this has come before us, the one new idea that emerges here is that many people have made representation, as you have, one should have voluntary rather than compulsory conciliation procedures. Your proposal is that the Act now permits voluntary but it has been misinterpreted.

MR. WILLIAMS: That is right.

MR. MacDONALD: I must confess that is a new one.

MR. METZLER: In that direction I would like to refer the members of the Committee to Section 49(2) of the Act.

MR. MACAULAY: It won't make any difference anyhow. The fact is if it is ambiguous it should be made clear, and if it needs a change, it doesn't matter whether it is now ambiguous or it is not.

MR. YAREMKO: Mr. Metzler, on page 13, about



eight lines from the bottom are the words, "...the Board dutifully conformed to the application of the employer." I don't know what Mr. Williams means by the insertion of the words "dutifully". Would you tell us on what reasoning the board made its decision?

MR. METZLER: The board interpreted the legislation -- I couldn't give you the reason for it -- that the application should be dismissed. For instance, there is a case, if Mr. Williams had wanted to take the thing further claiming the board was not availing itself of its jurisdiction, it could have gone to the courts on the basis of mandamus and asked that the question be properly determined.

MR. MACAULAY: What do you mean, "dutifully"?

MR. WILLIAMS: Well, put it down to my Welsh kind of expression. I am not meaning that the board felt that it was its duty. I know, literally interpreting the word "dutifully" --

MR. YAREMKO: Perhaps I can assist you.

MR. MACAULAY: Can't I ask this man what he meant by his own word? It seems to me logical that you are the fellow that should tell us, not with Mr. Yaremko's assistance of what he thinks you mean.

MR. YAREMKO: well, I should like to interpret --

THE CHAIRMAN: wait a minute. You are out of order, Mr. Yaremko.

MR. YAREMKO: While Mr. Williams is thinking --



THE CHAIRMAN: Let him continue to think.

MR. WILLIAMS: Mr. Macaulay, if my use of the word "dutifully" here is giving you some other idea, I would gladly change this wording to "and the board complied with the application of the employer".

MR. YAREMKO: I thought, Mr. Williams, that you meant by that word that the board was carrying out its duty in interpreting the law that had been laid down for it, and therefore made the proper interpretation.

MR. WILLIAMS: No, I must confess, Mr. Yaremko, that is not what I had in mind.

MR. MACAULAY: That is not what he had in mind at all.

MR. WILLIAMS: My meaning in using the word was simply and solely that the application came in and because the board had so often ruled a strike was illegal under such circumstances, they did it again.

MR. MacDONALD: In all this conciliation proposition, as far as this representation is concerned, what you want is that the Act shall explicitly state it is voluntary rather than it being now in your opinion there but practice has not permitted it?

MR. WILLIAMS: That is right. Mr. Chairman?

THE CHAIRMAN: Yes, Mr. Williams?

MR. WILLIAMS: It is not too rough, is it?

THE CHAIRMAN: It is very gentle. We are very happy with it.

MR. WILLIAMS: If I am all at sea --





THE CHAIRMAN: You are not.

MR. WILLIAMS: In the use of the words "either party may", if that means either party shall -- if that is the interpretation of those words, then I would like to be made clear about it by people like you have on your Committee here and members of the legal profession.

MR. YAREMKO: Mr. Chairman, I think this is a point which, on the face of it, is well taken, and perhaps, Mr. Metzler, can you assist the Committee and get for us the decision of the board in interpreting --

MR. WILLIAMS: I can tell you what it was -- it was our case -- because I was down there arguing the case.

MR. YAREMKO: I mean the written decision.

MR. METZLER: Were there reasons given?

MR. WILLIAMS: Yes, in a telegram. Never saw the board act so quick in its life.

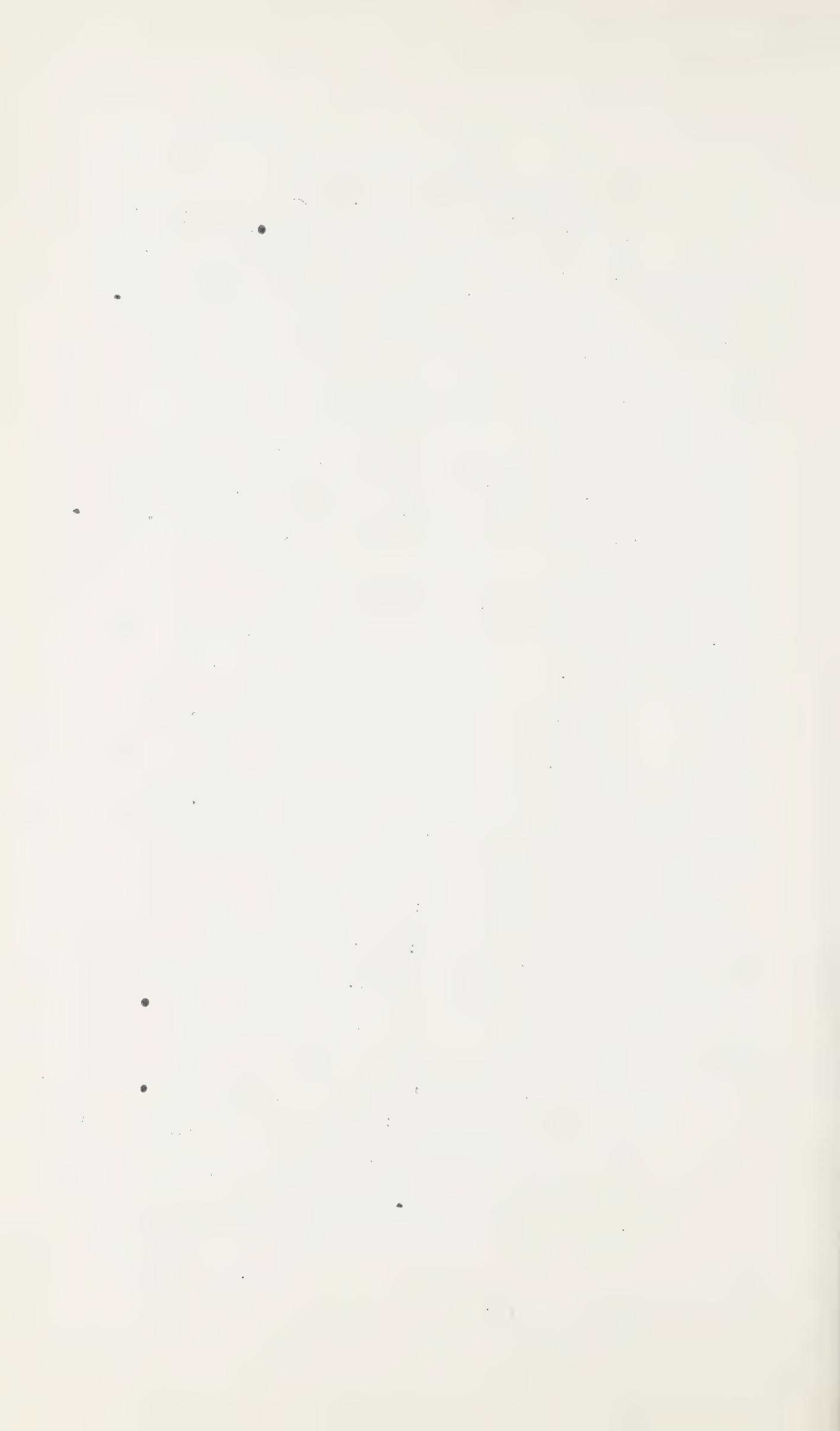
THE CHAIRMAN: Were reasons given?

MR. WILLIAMS: No, just a telegram sent me saying the strike was illegal. I went up to Parry Sound and said we can challenge the law but we must not deny it; please go back to work, and they went back.

THE CHAIRMAN: That brings us up to page 16.

MR. MacDONALD: There is one rather obvious point that emerges here in your suggestion that of the two representatives on the board one should be from the C.L.C. and one from the independent. Have you any formula on how to choose from among the independents?

MR. WILLIAMS: Well, the Department of Labour



knows who the independents are. I am quite certain if the Department of Labour gave to the independents the opportunity of choosing from among themselves one person, I think the independents would be --

MR. MacDONALD: You think they would sit down with the N.C.C.L. which is an independent group?

MR. WILLIAMS: Well, in this work, Mr. MacDonald, I sit down with a lot of people I wouldn't like to sit down with.

MR. REAUME: You have to though.

THE CHAIRMAN: Don't we all?

MR. MacDONALD: Let me express this to you. This has been expressed. The contention is, since you have among your independents a good many -- there are the Railroad Brotherhood, the N.C.C.L., you have your Christian Labour Association and so on.

MR. WILLIAMS: United Electrical, and Mine, Mill and Smelter.

MR. MacDONALD: Yes. Since it would be extremely difficult to work out a satisfactory formula, and if one of these was chosen as opposed to the other, conceivably there would be even more discrimination, if indeed there is discrimination, and therefore it might still be better to have it from the major organized labour group.

THE CHAIRMAN: Can't we have it like they choose hockey stars?



MR. MACAULAY: Each member having a vote.

THE CHAIRMAN: whatever way they want to do it.

MR. MacDONALD: It is difficult to administer your proposal.

MR. WILLIAMS: There are elements in the trade union movement as there are in other movements; there is a lot of publicity focused on us at the moment, and there are a lot of bad apples elsewhere.

THE CHAIRMAN: There is no suggestion of racketeering here in Ontario.

MR. WILLIAMS: No, and I am not suggesting it, but there is a lot of publicity about what is supposed to be going on in the trade unions.

I think there was a time, you know, when a lot of the unions that are now sitting down together in the Canadian Labour Congress didn't have the slightest time or patience with each other. I can well remember the formation of the old Canadian Labour Congress -- Canadian Congress of Labour -- when there was a lot of small groups, splinters of this, that and the other, and yet they did come together, and they sat down, and out of it came the Canadian Congress of Labour. what was done on that occasion can be done on other occasions. Such as choosing somebody without leaving the impression, as it is now, that if an independent goes before this present board that there is the possibility -- and I won't go any farther than saying that at the moment -- there is the possibility that there is a strike against them when they come before the board.



MR. MACAULAY: Is there any way you can help me specifically? One can't hold one's breath forever, and if something is to be done in relation to this -- a very great many of the things you said have much merit, and this may well be one of them.

Now, what positive recommendation have you got as to how that can be done? Say there are two men; one is from the congress and one from the independent unions. Now, you can realize the position of any Government--I don't care how inclined they are.--the problem they are up against whenever they have a lot of people competing for that one position. If the Government were to select one as opposed to another, then it could be said, and it might well be said by those who were not selected, "Now the Government has a representative on the board also".

If you could show us -- if you can't today, submit to us some positive way in which it can be done without the Government interjecting its own personality into the matter, I think this Committee -- and I speak for myself in any event -- would give it very serious consideration, but we are not going to get into any hornet's nest, I will tell you that.

THE CHAIRMAN: It shouldn't be a Government appointment, Mr. Williams.

MR. WILLIAMS: I agree.

THE CHAIRMAN: Would you be prepared to make a recommendation now, as to how it should be done, or would you rather consider it?





MR. WILLIAMS: I thought I had, but if the Department of Labour invited the independents to submit a name not later than a specified time and let that specified time coincide with some stage in the forthcoming session of the Legislature, or at a later date if it would fit into your reporting to the Legislature by such a date, and if no action was taken by these people, then I think that in itself constitutes a waiving of any further claim.

MR. MACAULAY: If two names were submitted --

MR. WILLIAMS: Let those people who choose the names resolve one out of two by a vote amongst themselves.

MR. MACAULAY: And if they don't?

MR. WILLIAMS. Let the Department then. I would say this that inasmuch as there is only place for one on the board, we have defeated our own purpose by refusing to choose one.

MR. YAREMKO: Mr. williams, from time to time this Committee has heard representations which decry the use of judges and one of the reasons being the background, their mentality does not lend them to be as impartial in labour matters as some would wish it to be. Yet we find on the one hand the decrying of lack of impartiality on the part of men who have to decide, and we find various aspects of the workers in which the unions nominate their representative, their representative on the board in the idea that the representative will not be acting as a wholly impartial member of the board and his thinking will be coloured, at least, by the source of his appointment.



Am I too idealistic in hoping there will be a day in which a board of this kind can be appointed by the Government, three men who would have a sufficiently broad understanding of labour relations policy to have mutual confidence of not say just the independents or just the other group, but would have an overall understanding, or are we to continue the aspect of having boards, conciliation boards, arbitration boards, in which the members of the board -- it is accepted that their viewpoint may be coloured by the source of their appointment?

MR. WILLIAMS: There are procedures whereby the Government does appoint a fact-finding committee. It might be a conciliation board or merely another type of board. I can't see in the foreseeable future that there is ever going to be a degree of experience gained or knowledge or state of idealism in the foreseeable future to permit such a thing being done.

I wouldn't hesitate to say this to the Committee that inasmuch as the present composition of the conciliation board consists of a definite representative of labour and a similarly definite representative of management, leaving the decision therefore to one person, that it could very well still be left to the one person and leave the other two out.

THE CHAIRMAN: Page 16, "Arbitration", gentlemen. Page 19. Page 20. Page 21. Page 22, "Conclusion".

MR. YARENKO: I trust, Mr. Williams, your last paragraph on page 22 still applies.

MR. WILLIAMS: Oh, it does. As a matter of



fact I have enjoyed it. I only hope you have not found it either too boring or me too objectionable.

MR. MACAULAY: There is a general question I would like to ask, Mr. Williams, since we have you here as representing District 50, sometimes members of delegations coming before us have made this representation and sometimes some members of our committee have thrown out the suggestion that because District 50 comprises such a variety of industry that this is a sort of anomalous situation that perhaps requires correction, or it is not desirable. What is your comment to that?

MR. WILLIAMS: I don't think I could answer.

MR. MACAULAY: District 50 is not mine workers?

MR. WILLIAMS: That is right.

MR. MACAULAY: This great variety of groups has been drawn into it, and the thought is it is desirable that we get to the point that the bartender should be organizing, the bartender and the mine worker should be organizing, and we get therefore the anomalies of names that bring in a lot of groups that are not obviously included in the name of the union. What is your comment on that?

MR. WILLIAMS: I think that automatically solves itself as the thing progresses. For example, in the whole of Canada today I think it is safe to say that the vast majority of steel workers are in the Steelworkers' Union, and similarly those involved in aircraft and auto are in the Auto Workers' Union. There is a smattering, perhaps of steel workers in



some other union, but I don't think the few that are not in the Steelworkers' Union can be taken as an indication that the natural trend of employees in an industry is not to go with the union that represents the industry.

Now, apart from that, there are so many people working in different undertakings that cannot be categorized as steel or auto, and this goes not only for Canada but other countries as well. Take for example in Britain, the General workers Union which is more cosmopolitan even than District 50 is, and you do have to have our kind of union to accomodate those who are outside the basic industries.

MR. WREN: For the record would you tell us how many members you have?

MR. WILLIAMS: Well, in this particular -- this is not the whole of Ontario -- in this particular region or in the particular regions we have here, there is between 15,000 and 16,000.

THE CHAIRMAN: Anything further, gentlemen?

MR. WILLIAMS: Incidentally, the figures we give quite frankly are not to be used in the press, are they?

THE CHAIRMAN: We can't control the press. Anything further gentlemen?

MR. REAUME: I just want to ask one question. Would you mind explaining in what field you are organizing, or are you in every field?

MR. WILLIAMS: Any place where we find workers





wanting to be organized, there am I also in their midst.

MR. REAUME: That is very good. In their midst and in their hair. That includes every field?

MR. WILLIAMS: Yes.

MR. REAUME: If you bring the harp along with you, you won't be in their hair.

MR. YAREMKO: Would you say also wherever there is an area where you feel they should be organized, there you are also?

MR. WILLIAMS: Yes. I can't go along with the idealistic conception we only go where they should be organized.

MR. YAREMKO: No, whether you go where you think they should be organized?

MR. WILLIAMS: We go where we think there is an opportunity for organizing.

MR. REAUME: Even though they are organized in some cases?

MR. WILLIAMS: I would like to put this qualification on that, and it is this: We have never once gone among any people who have organized unless there has been some request for us to go there. We don't want to be disturbed where we are organized, and we don't want to disturb somebody else where they are organized. But if the union that is there, including our own, is not doing the job in the opinion of the people there, then those people should have the right to get somebody else, and we think we



can do the job.

MR. WREN: I was interested in your comment how the Welsh miners love the union. I was in there not too many years ago -- quite recently, as a matter of fact, and I have many relatives up around there -- and they did not give me the impression that they loved trade unions at all.

MR. WILLIAMS: Maybe I was a little bit too enthusiastic. I didn't intend to convey the impression that even in Britain the employers love trade unions -- not even that.

MR. MacDONALD: At least they accept them more than they have done here.

MR. WILLIAMS: I think they have reached the stage in some places where they realize persisting in hostility is futile.

THE CHAIRMAN: Thank you very much, Mr. Williams. You can see from the interest of this Committee that your views have been very, very carefully considered up to the moment, and in considering the report that we hope to bring down to the Legislature sometime in the future, you can be assured that the sincerity of your views will be very carefully considered, as well as the views themselves, in any report we have to make.

MR. WILLIAMS: If only in deference to my friend on my left I would like again to read the very last paragraph: "On this concluding note of clarification, we extend our thanks to the special committee for the patience and courtesy it has displayed during the course of this submission."



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THE CHAIRMAN:      Thank you very much Mr. Willians.

We will adjourn now until 10 o'clock tomorrow morning.

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PROCEEDINGS OF  
Select Committee  
Labor Relations Act

Held at Parliament Bldgs  
Toronto, Ontario

VOLUME No. ~~26~~ ~~27~~ ~~32~~ ~~33~~

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## LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,  
Queen's Park, Toronto, Ontario,

Thursday,  
January 30th, 1958.

JAMES A. MALONEY,	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.,	Committee Counsel

MEMBERS:	G. E. JACKSON
	Donald C. MacDonald
	Ellis P. Morningstar
	Raymond M. Myers
	Arthur J. Reaume
	H. Leslie Rowntree
	J. W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

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APPEARANCES:

MR. J. B. METZLER	Deputy Minister of Labour
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BRIEF BY A GROUP OF ONTARIO DAILY NEWSPAPER  
PUBLISHERS

Mr. J. J. Robinette, Q.C.	Counsel
MR. I. H. MACDONALD	
MR. R. L. CURRAN	
MR. H. B. HOLMES	
MR. M. L. HAMILTON	
MR. J. E. SLAIGHT	



APPEARANCES (Cont'd):INDIVIDUAL DUMP-TRUCK OWNERS' ASSOCIATION

John R. Watson	Chairman
G. W. Harvie	Secretary Treasurer

AGGREGATE PRODUCERS ASSOCIATION OF ONTARIO

D. H. Sherman	President
A. D. Wylie	Secretary
J. M. Duff	Director
E. A. Hansen	Director

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THE CHAIRMAN: Gentlemen, it is now ten o'clock. This morning we are to hear from the Ontario Daily Newspaper Publishers, who are represented by one of our most distinguished members of the legal profession in the person of Mr. J. J. Robinette, Q.C., who is accompanied by Mr. I. H. Macdonald, Mr. R. L. Curran, Mr. H. B. Holmes, Mr. M. L. Hamilton, and Mr. J. E. Slaight.

Now, Mr. Robinette, the manner in which this committee has been proceeding is whoever is to present the brief, reads it to us in its entirety, and then you subject yourself to questioning from the members of the committee. You may sit down and read the brief, and also when you are being questioned, if you prefer it that way.



MR. ROBINETTE: I would just as soon stand, if I may. I may say, Mr. Chairman, on behalf of the thirty-four daily newspapers, we appreciate this opportunity of making some suggestions with reference to the operation of the Act. As you can see, the brief is not a voluminous one and we have just a few suggestions. The thirty-four newspapers, ~~for~~ whom I am speaking today, are listed at the end of the brief on page 3, and you will see that they are newspapers from all parts of the Province of Ontario. I inquired about the Renfrew paper, Mr. Chairman, but unfortunately it is not yet a daily.

THE CHAIRMAN: It is a weekly.

MR. ROBINETTE: I was hoping that the Renfrew paper would be here, but it is a weekly publication.

THE CHAIRMAN: It expresses the true dogma, politically, though.

MR. ROBINETTE: I would expect so.

MR. MORNINGSTAR: They don't have a daily paper?

MR. ROBINETTE: No, sir. I should add that at the table with me is Mr. R. L. Curran of the Sault Ste. Marie Daily Star, who is the Chairman of a special committee which was organized to present this brief; and if I may, I will just read the brief, Mr. Chairman.





-- (Brief read by Mr. Robinette)

MR. ROBINETTE: Now, as far as that last paragraph is concerned, the Toronto Daily Star; which is one of the subscribing parties to the brief, has asked me to make it clear that they support, or that that newspaper supports paragraph 4, only if the legislation can be drafted in such a way as to minimize the time limit on appeal.

That newspaper is apprehensive that a long delay might be used by an employer to destroy a union and it will support this proposal if it is made clear that the legislation minimizes the time limit for appeal.

Now, if I may explain further with reference to paragraph 4, and although this does not appear in the written brief, I am putting forward certain suggestions which, in my respectful submission, would carry out the object and purpose of paragraph 4. As you know at the present time, although there is no right of appeal as such from the Labour Relations Board, the practice has been, where there is a question of law involved affecting the jurisdiction, to move before a single judge of the Supreme Court of Ontario on a motion called a motion by way of certiorari, to quash the decision of the Labour Relations Board.

Now, that is heard by a single judge; it



may then go to the Court of Appeal and under certain conditions with leave, to the Supreme Court of Canada. What we are suggesting is really to abolish that procedure by way of certiorari and substitute for it a right of appeal directly to the Court of Appeal, but limited to questions of law or questions of jurisdiction; and secondly, limited to a situation where the Court of Appeal will grant leave to appeal.

Now, that has, in our view, two advantages: no appeal can be taken to the Court of Appeal under that proposal unless the Court of Appeal first gives its permission or leave to appeal, and in that way the Court of Appeal can weed out at a very early stage frivolous applications which are apparently designed just to delay the matter. That is one advantage of this proposal over the existing practice.

A second advantage is that you would go directly to the Court of Appeal from the Labour Relations Board on a question of law or jurisdiction and avoid going before a single judge in the first instance, and thus arrive at a more expeditious and final determination over the result.

Now, we feel that that would improve the existing situation, because I think it may be said that in some instances employers have used the certiorari process for delay with the result that the union becomes a little tired of things and runs out



of steam and loses prestige just because of the delay, and we think that this would give a more uniform interpretation of the Act; it would protect everyone's right and would be faster and more efficient than the present system by way of certiorari.

Now, with reference to paragraph 2, "Representation Vote Upon Application for Certification", the view of the newspapers has, of course, necessarily been stated in a very general way. The emphasis that they put upon the problem is the protection of individual rights, and that a secret ballot conducted by the Board is in essence the protection of those individual rights, and that wherever it appears to the Board that there is substantial opposition to the certification, that a secret vote should be mandatory.

The great value, as you can appreciate, of a secret vote is that a man can cast his judgment on the matter free from any influence of the employer and free from any influence, improper or otherwise, of the union.

Now, those are our suggestions. I think I can say generally that the newspapers are happy with the provisions of the Act, subject to those suggestions. They are not numerous, and we very respectfully and formally suggest them to you as proper.

THE CHAIRMAN: Thank you, Mr. Robinette. Now, gentlemen of the committee, are there any questions

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arising out of the introductory paragraph on page one?

MR. REAUME: I just want to ask a question. Are all these thirty-four papers on the back page, are they all organized?

MR. ROBINETTE: Oh, I would expect, Mr. Reaume, as far as the printers are concerned -- I can't speak for everyone, but certainly the vast majority of them would be organized.

MR. REAUME: The printers. But other branches of the papers are not, I presume?

MR. ROBINETTE: You are thinking of the editorial staff.

MR. REAUME: Yes.

MR. ROBINETTE: Some are and some are not.

MR. REAUME: Some are and some are not?

MR. ROBINETTE: For example, I know that one, at least, of the Ottawa papers is organized. The Brantford paper, I believe, is organized. Some are and some are not.

MR. REAUME: The reason that I ask that question is this, that some papers frown on the idea of reporters, for instance, the editorial staff having any part of a union at all, and I was just wondering what the reason is or is there a reason?

MR. ROBINETTE: Well, I can't speak on





that subject for all the newspapers, because I imagine views on that vary among the newspapers. But I think it is fair to say this, Mr. Reaume -- let me express for your benefit the view that I have in the past heard from some employers, and I am not putting it forward as the view of any of these newspapers or some of them. The view that has been expressed is that the newspapers have no objection to the organization of reporters and editorial staff for monetary purposes only, but they do object to any association with a union which leads to certain ideological viewpoints or association with a particular party.

MR. REAUME: By "party" you mean --

MR. ROBINETTE: Political party.

MR. REAUME: Political party.

MR. ROBINETTE: Yes. They feel that reporters and editors are in a position when reporting a particular event, say a political event, that they should report it without colour, without bias and that there is a danger if they are too closely associated in their thinking with a particular organization, that it might affect the unbiased and uncoloured presentation.

MR. REAUME: The only thing about that would be, I suppose if a reporter were biased one way or the other, and this bias did not meet with the approval of the man upstairs, in any event, he would



put that in the file, anyway.

MR. ROBINETTE: Well, if your man upstairs is also a night editor and he is in the union, maybe it will --

MR. REAUME: Yes, I know. But it is going to be awfully hard for anybody to organize the man upstairs.

MR. ROBINETTE: Mr. Reaume, don't misunderstand me. I am not saying that that is a valid view. I am not saying that any of these newspapers support that view, far from it. The question you asked me was why in the past some newspapers, both in the United States and Canada, have taken that view, and I am merely stating their position.

MR. REAUME: The only part that I could not understand, if papers would agree that reporters should organize for the purpose of gaining better working conditions and things of that sort, what are they worrying about as to the bias, because in any event, if the man who is reporting is biased one way or the other, if his bias does not meet with the approval of the man upstairs, then, of course, it is not used.

MR. ROBINETTE: That may be an effective answer.

MR. REAUME: I say I am in favour of reporters being organized, as are printers.



MR. ROBINETTE: Well, they are today in many newspapers.

MR. REAUME: Well, in some.

MR. ROBINETTE: Yes.

MR. REAUME: But there are plenty, of course, who are not.

MR. REAUME: Well, I think in all the Toronto dailies they are organized. Toronto in that respect is very good. I would not want to name the ones which are not because the reaction might not be good.

MR. ROBINETTE: Again, don't misunderstand me. The question you asked me was, what was the reason that some of the newspapers in the past in the United States or in Canada have taken this position, and I am only telling you what I have read.

MR. REAUME: I realize that. I appreciate that. Thank you very much.

MR. MACDONALD: It is not an objection of the bias, but of the wrong kind of bias.

MR. ROBINETTE: That may be so.

MR. MACDONALD: I have known many newspapermen who went in unbiased and had to assume a bias.

MR. ROBINETTE: Well, from my experience of them, which does not encroach on the political field but is confined to the reporting of court



matters, my own experience as I have found is that the reporters in this city over a period of years have been fair and accurate.

MR. REAUME: I think that is true in every field.

MR. ROBINETTE: Even occasionally in the rapidity of a trial they make some mistake, they always conscientiously try to be fair, and you cannot ask for anything more, and that is all I know from my own personal experience.

THE CHAIRMAN: Anything in paragraph one, gentlemen, "Right of Individual Employees on Application for Certification"?

MR. MACDONALD: Mr. Chairman, this latter suggestion in the last sentence of paragraph one, is one that we considered earlier, but it does seem to me that would present some difficulties in view of the present set up.

MR. ROBINETTE: Well, I don't know that it should be. The National Labour Relations Board in the United States, of course, which has most of the labour problems for the United States on its hands, does most of its work through Examiners who are sent through the country. But it does seem unfair -- you take Port Arthur or Sault Ste. Marie -- there should not be some type of **local** hearing. Our courts go on circuit.

MR. JACKSON: Would not an alternative





suggestion be to have, probably, conciliating officers in various centres who could probably also be an Examiner and conciliator in various areas throughout the province?

MR. ROBINETTE: I think that would be a good idea. I think the administration of the Act needs some decentralization from the standpoint of fairness and expense to the parties.

MR. JACKSON: Yes.

MR. ROBINETTE: I mean there would be an outcry if all litigants had to come to Toronto to try their cases.

THE CHAIRMAN: The only difficulty that has been presented, if it is a difficulty, the right to cross-examine those ~~who~~ have been intervening

by the applicant union. That would have to be provided for too.

MR. ROBINETTE: Oh, yes.

THE CHAIRMAN: Is that a problem?

MR. MACDONALD: It is not only a problem, it is the problem, because the union claims their position is a bit unbalanced. If they seek certification, their credentials have to be clear and above board; their motivating force does not have to be clear and above board, and it is an area of clear suspicion and it is the very area in which you require cross-examination.



THE CHAIRMAN: It even has been suggested that some of these intervening people who are without resources financially, appearing with what was popularly called high-priced lawyers, and I cannot understand how they can afford to do it.

MR. ROBINETTE: I have frequently seen that, and that naturally will arouse the suspicion of the Board. But, gentlemen, I have also seen the other side, a poor little fellow comes up who does not want to join the union, and he is immediately subjected to a barrage of questions by the Board and made to feel that he should not be there. Now, they should be encouraged to speak, rather than discouraged.

MR. WREN: Tell me, Mr. Chairman, I am rather interested -- in a case where a working man without any means or without any sense of means requires legal aid in an important matter in the Labour Relations field, would the legal aid render him aid in that?

THE CHAIRMAN: I think Mr. Robinette would be in a better position to answer that.

MR. ROBINETTE: At the present time the Law Society's Legal Aid Plan is confined to certain types of legal aid matters. Now, I cannot recall that we have ever had an application from an individual for legal aid with respect to a labour matter. All I can say is that if that were brought before the committee,



the Legal Aid Committee, it would have to be considered. We have never had such an application. There does not seem to be any reason why it shouldn't.

MR. MACDONALD: Is legal aid available for appeals beyond the first trial?

MR. ROBINETTE: No, sir. Except in very exceptional circumstances. Under our regulations, we supply free legal aid to any person, for example, charged with a criminal offence that cannot pay the cost of a defence, and we also supply legal aid at the trial of a civil matter. Now, our Legal Aid Committee has the power to give legal aid with respect to appeals - they have not a right to it, but we have a discretionary power to give it to them, and we have exercised that discretionary power in two or three murder trials.

MR. MACDONALD: I solicited that information for the benefit of the chairman.

THE CHAIRMAN: I told my friend the other day if he ever got in trouble I would see that he got good counsel.

MR. ROBINETTE: I think, Mr. Chairman, this can be said: over the past twenty-five years no person, at least in a criminal case in Ontario, has suffered for want of counsel. You always find someone is willing to give his services. Now, the Legal Aid service instituted by the Law Society has channelized



that into a proper procedure.

THE CHAIRMAN: Anything else under this item, gentlemen? No. 2...

MR. MACDONALD: Mr. Robinette, are you making this proposal without any qualification? In other words, if an application for certification comes in and says eighty per cent of the employees are clear and above board ---

MR. ROBINETTE: No. All I am saying is as a general rule where there is substantial opposition, it should be mandatory. As you know now, if it is between forty-five per cent and fifty-five per cent, a vote is ordinarily mandatory. I have always felt that fifty-five per cent was not quite high enough because there would be a danger that in there some people might have been by improper influence persuaded, shall we say, to sign the union cards. I am not putting it forward as an absolute rule; it would be absurd. Suppose you have ninety-nine per cent, to take it to the absurd position, if the Board was satisfied one man did not want it there should not be a vote, that is absurd. But there should be, in my submission, a greater margin above the fifty-five per cent.

MR. MYERS: Do you think there should be a secret ballot? Because it seems to me this situation arises: if a man votes at all, he in effect





votes against the certification and his employer would know then who did not consent to the certification. Well then, that could be overcome by a secret ballot, and then you would be faced with the problem of having everybody vote because not all the employees may vote.

MR. ROBINETTE: No, I don't think you can force a man to vote.

MR. MYERS: But then, I understand there is legislation to the effect of compelling him to vote. I am curious to know what happened to it. Do you know?

MR. ROBINETTE: No, I don't know about it. Personally, I don't think a man should be coerced by law into voting or not voting.

THE CHAIRMAN: But if he does not vote, do you think, Mr. Robinette, that his vote should be counted as a vote against the application which is the practice today?

MR. ROBINETTE: That is the practice at the present time. There is a lot to be said to the contrary vote, that there should be a majority of those who actually vote and who are sufficiently interested in the problem to vote.

MR. MACDONALD: Assuming, at least, a majority of those eligible to vote had voted.

MR. ROBINETTE: Yes, quite so. You would



have to have that limitation. But our emphasis rather is on the existence of a secret ballot. The thinking behind that is, as we all know, pressures are put on a man sometimes by employers, pressures are put on that man by the trade unions, by the other people working around at the machines, particularly the elderly employees. That has been my experience. The elderly employees have been put under pressure by the younger men, they are scabs and so on, and if you have the secret ballot nobody knows how they voted, and I think that is the safeguard of the rights of the individual. That is the point we are trying to make.

MR. MYERS: Can I ask you one other thing?

MR. ROBINETTE: Yes.

MR. MYERS: If you have a secret ballot, there should be some evidence that a substantial number of employees want a union.

MR. ROBINETTE: Yes.

MR. MYERS: Should it be something less than forty-five per cent to get the machinery moving?

MR. ROBINETTE: I would not think so. I think forty-five per cent is sufficient.

THE CHAIRMAN: Anything further under Article 2? Article 3, "Right of Management to Communication and Discussion with its Employees".

MR. MACDONALD: Mr. Chairman, I have a question I would like to put to Mr. Robinette, because



it is something we have not only heard and discussed, but indeed, argued. The problem I want to put to you is this: apart from the role of correcting misstatements or misunderstandings, that is advanced as a reason why management should be able to sort of participate actively in, say, certification campaigns, apart from that, what conceivable roles can management have in participating other than opposing the union, and if that is the case, to give them their right is in effect an infringement on the workers to join the union of their choice?

MR. ROBINETTE: I think the way you have put it is basically fair in this sense. After all, the whole theory of labour legislation is that the unions -- or I should say, the employees are to be free to pick and choose their own agents, shall we say, just as much, I suppose, as the Company is to be free from any outside influence to pick and choose its own agents, such as solicitors and accountants and so on, and in that sense it is quite correct. But we do think an employer ought to have the right to answer misstatements or correct misunderstandings.

MR. MACDONALD: As a matter of actual fact -- I know it is a very delicate kind of thing to assess -- but is there any difficulty at the moment or would it before the Labour Relations Board be considered an undue encroachment if management



circulated a letter which just said "Here is a fact they presented to you; it is wrong; the correct statement is this..."

MR. ROBINETTE: Well, the danger is, the fear is that management hesitates to do that today. Many people in management fear that would be misinterpreted by the Board as some form of interference.

What we are suggesting is, the legislation when it says in Section 47, which deals with unfair labour practices,

"No employer shall seek by threat  
 "of dismissal or by any other kind  
 "of threat, or by the imposition of  
 "a pecuniary or other penalty or by  
 "any other means..."

It is that "or by any other means"

"...to compel an employee to refrain  
 "or to become a member of the union".

What we are suggesting is, it should be made clear in that subsection that a mere statement by an employer correcting misstatements or misunderstandings should not, under any circumstances, be construed as another means of compelling a certain result.

MR. MACDONALD: I suppose your problem is, if you are going to pursue this further, the means they will be permitted -- I mean, if it is a letter, that might have no danger; if it is calling





a meeting where by a wink of the eye or the shifting of the eyebrow at the right time, he is suggesting we are going to have to lay off half of you if you are a union; it is a problem you are going to have to consider.

MR. ROBINETTE: That is right. And you never get two witnesses to tell exactly what did happen at that meeting, to tell it the same way. I mean, different witnesses put different emphasis on different things that are said. But I think the employer should have a right to correct misunderstandings and misstatements.

MR. MACDONALD: I am not sure that I said that.

MR. ROBINETTE: I thought you said that.

MR. MACDONALD: As to how it should be implemented, I think it would end up as an encroachment on the right to choose a union of their choice.

MR. ROBINETTE: Don't misunderstand me. We are not saying for a moment they have not a right to select a union of their choice; but also this has to be kept in mind, Mr. MacDonald: it is true not only in the political field but in the labour field, the exercise of a right to vote is beneficial only if it is being done intelligently and on the basis of full information as to the facts. After all, the right to cast a ballot may be nominal only, either



politically or otherwise, if the voter at the time he cast his ballot is not intelligently informed on the issue that he has decided.

MR. MACDONALD: This is a relevant problem all the time.

MR. JACKSON: You are getting too close to home.

MR. MACDONALD: Let me put it this way: in political elections there are some parties that have a million dollars for every hundred, and others that have to get their ideas across are the ones --

THE CHAIRMAN: Let us not get into that.

MR. ROBINETTE: What I am saying is, let us confine it to Labour Relations. If we are going to have the secret ballot, and it seems to be agreed there should be a secret ballot, that is worthwhile in our respectful submission only if the man when he casts that knows what he is voting about, and the more accurate information he has on the problem, the better it will be for everybody.

MR. REAUME: Here is a **problem** that has always been rather dark. For instance, an organizer has a right to go to prospective union members' homes and explain the pros and cons and the good points of the union. Now, has the employer got that same right?

MR. ROBINETTE: I think he has the right,



as long as he does not use his little talk as a means to compel an employee to become or refrain from becoming a member of the union.

MR. REAUME: Well, obviously, the organizer is going to do everything he can do, I don't mean to the extent of hitting him on the head with a club, but he is going to do everything he can do to point out the good points of the union?

MR. ROBINETTE: Certainly.

MR. REAUME: Now, on the opposite side of it, has the employer the right to point out the bad things or must he not do that, in keeping with the real intent of the Act?

MR. ROBINETTE: Well, I would think that any employer today under this section would be afraid to go to an employee and say now, these are bad things about a union...That could easily be construed as psychological intimidation.

MR. REAUME: I see.

MR. ROBINETTE: Now, that is what we think should be clarified, that an employer under those circumstances can give the facts, correct misstatements and misunderstandings so that when the vote is cast, it will be cast intelligently.

MR. MYERS: Do you think that what the employer ought to be permitted to say ought to be limited to facts? Why should he not be able to give



opinions? Why shouldn't he say, for instance, that the monetary dues are far too high for what they get?

MR. ROBINETTE: Well, let me put it this way: our brief does not go that far. If you ask my personal view...

MR. MYERS: Yes.

MR. ROBINETTE: It does not matter. I think that as far as the publishers are concerned, they feel that in a democracy, the right to vote should be exercised intelligently and the employer should be able to give facts.

MR. MYERS: Would you care to express your personal opinion? - because I think we all respect it.

MR. ROBINETTE: Well, no. I would rather not at the present time. I thank you for the --

MR. MACDONALD: Mr. Chairman, I think maybe we are getting closer to getting at the bottom of this. Let me present the thing in this way: This proposal that you have just made is usually presented to us within the framework of the freedom of speech; that management must have freedom of speech, and at the moment it is denied. Now, I notice that you are not impressed by that.

MR. ROBINETTE: Well, I was just thinking as you were saying it, that is all. I don't think it is a question necessarily of freedom of speech. I rather choose to look at it from the standpoint of the





secret ballot and the making of that casting of the vote intelligent and effective, that therefore, they should be informed fully on the facts.

THE CHAIRMAN: On both sides?

MR. ROBINETTE: On both sides.

MR. REAUME: I am rather impressed with that idea that people before voting, before making up their minds, ought to hear both sides of the story.

MR. ROBINETTE: Yes.

MR. REAUME: And I am very happy to see that that thought is coming from the papers.

MR. ROBINETTE: That is right.

MR. REAUME: Because it would be excellent if they would also hear every side of every story even if they were to print them in the columns of their papers. You find they only print one side...

MR. MACDONALD: Particularly in the Windsor Star.

MR. REAUME: I don't know about that. That is a very fine paper, I want you to know.

MR. ROBINETTE: I was afraid somebody would bring that up.

THE CHAIRMAN: Anything further under Article 3? Article 4, "Right of Appeal", on page 3.

MR. JACKSON: Mr. Robinette, on the Right of Appeal -- don't misunderstand me, I understand the reason that every man should have the right to appeal



further through the courts of the province, as suggested by you, but is **that** not a question of just prolonging the final outcome? I mean, you will recognize right away that people who lose, especially in labour relations, be it the union or be it the employer, that there is another body to which they can subject their arguments to; aren't you just going to prolong the process and the final outcome, and secondly, aren't you going to therefore, to just use a phrase, clutter up the courts with only those who have lost, that would be the people who appeal, and in labour relations, I think it is fair to state, you will have a tremendous amount of appeals if you give the right to appeal?

THE CHAIRMAN: Not if you ask for leave to appeal.

MR. ROBINETTE: No. I think under the present system whereby a person can bring one of these motions by way of certiorari, and contend there has been some legal error, and as a consequence of that legal error that the Board has lost jurisdiction, that that is much more time consuming than our proposal. Our proposal is that there be a right of appeal on a question of law or jurisdiction directly to the Court of Appeal and only with the leave of the Court of Appeal, so that the Court of Appeal can weed out those that are frivolous in a very short time.



The way you put it to me, sir, is this: in considering any matter involving law, you have to decide whether you want justice or speed. You can set up a tribunal which will dispose of these things very expeditiously, but they can do it very badly, and therefore, result in an injustice. The doing of justice in the proper interpretation of the Act may take a little more time, but except in those cases that are purely frivolous, isn't it worthwhile to see that justice is done even at the expense of some delay?

MR. REAUME: You are speaking about the right of appeal from the Board.

MR. ROBINETTE: Yes, sir.

MR. REAUME: Where would that appeal go to, to what court?

MR. ROBINETTE: Our proposal is that it go to the Court of Appeal.

MR. REAUME: The Court of Appeal. And then after that, is there any further appeal?

MR. ROBINETTE: There is.

MR. REAUME: I mean, how far do you go?

MR. JACKSON: Well, once you are there, you go right up.

MR. ROBINETTE: Once you are in the Court of Appeal, a further right of appeal exists to the Supreme Court of Canada, if the Supreme Court of Canada gives leave to appeal to that court, or if the



Court of Appeal grants leave to appeal.

Now, there is nothing you can do about that in the legislature of Ontario, because the jurisdiction of the Supreme Court of Canada is prescribed by Federal Statute. I mean, there are certain provincial acts, for example, the Mechanic's Lien Act which purports to make our Provincial Court of Appeal a final Court of Appeal; but that is ineffective, because the Dominion Parliament has the right to create a final federal Court of Appeal and define its jurisdiction.

MR. REAUME: I was only wondering, on some fine point of law if people who are able to appeal financially, appeal and appeal without it being any burden on them, might for the purpose of holding up an agreement or stop the people from organizing just go on appealing, whereas a small union, for instance, can't; it would run out of funds.

MR. ROBINETTE: We are quite conscious of the point that you have made, and that, of course, is the point made particularly by the Toronto Daily Star, that these matters should be disposed of expeditiously. But isn't the safeguard in our proposal that you can not appeal to the Court of Appeal except with the direction of the Court of Appeal? The Court of Appeal will look at the case and decide whether or not there is a fairly arguable case. If the Court of Appeal





thinks there is no fairly arguable point and the application is brought purely for the purpose of delay, the leave will be refused.

Now, that is much better than the present system whereby you can bring this certiorari to a single judge, then to the Court of Appeal, and then to the Supreme Court of Canada, and you can bring your motion by way of certiorari without obtaining anybody's permission.

We have suggested in this the same procedure that is followed on appeals from the Ontario Municipal Board. It is identical; and it is, in our submission, much quicker than the present system. It would be cheaper and would eliminate purely delay-seeking applications, which is the point you have in mind, Mr. Reaume.

THE CHAIRMAN: Anything further on this point, gentlemen?

MR. MYERS: Mr. Robinette, there are a great many matters of importance which we are called upon to consider, and I will not ask your opinion about many of them. But one that is worrying me is, what is called "right to work legislation". We have been told that a number of States of the Union have such legislation. There is an association formed now for the purpose of testing conditions such as this right to work legislation. I would like to know if you would care to tell us what



your views are about that?

MR. ROBINETTE: Well, Mr. Myers, at the moment I am here representing a certain group, and if I said anything on that, it might be interpreted as expressing the views of some members I represent, and I have not discussed that with them, so I would rather not.

THE CHAIRMAN: I don't think we should put Mr. Robinette in that position.

Any further questions arising out of the brief? If not, Mr. Robinette, may I, as chairman of the committee, express to you our great pleasure in having you before us, and our sincere thanks to you for the benefit of your views, which will receive the very careful consideration of this committee in making its report.

MR. ROBINETTE: Thank you very much.

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(Page 3565 follows)



E R R A T U M

Page Nos. 3366 to 3408 inclusive

should read

3566 to 3608

inclusive

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BRIEF OF THE INDIVIDUAL DUMP-TRUCK OWNERS'  
ASSOCIATION

THE CHAIRMAN: Gentlemen, it is now eleven o'clock. We are to hear the brief from the Individual Dump-Truck owners' Association. Mr. Perkins, do you have the names of the representatives?

MR. PERKINS: I have not got them yet, Mr. Chairman.

THE CHAIRMAN: Gentlemen, we will hear from the Chairman of the Association, Mr. John R. Watson, accompanied by Mr. G. W. Harvie, Secretary Treasurer of the Association.

Gentlemen, as you probably have heard in the previous briefs, the manner in which we proceed is that the brief is to be read to us in its entirety and when that has been done, the members of the committee have the right to ask you certain questions.

MR. REAUME: Could we ask him one question first? I wanted to ascertain how many people he has in this group?

MR. WATSON: It is disclosed in the brief.

THE CHAIRMAN: Who will read the brief?

MR. WATSON: I will.

-- (Brief read by Mr. Watson)

THE CHAIRMAN: Thank you very much. Now





then, gentlemen of the committee, are there any questions arising out of page 1 on this brief?

MR. REAUME: You operate through owners and drivers. You organize only the owners of the trucks?

MR. HARVIE: That is right.

MR. REAUME: You don't organize the drivers?

MR. HARVIE: No.

MR. REAUME: I wonder if you would state the hourly wage paid by the owners to the drivers of the trucks?

MR. HARVIE: I don't think I could give you, Mr. Reaume, the definite figure. That is an over-all picture. I can tell you this, that when we started this Association, I put a driver on my truck, I pay him twenty-five per cent. of everything that the truck takes in.

MR. REAUME: No. But I mean, is there an hourly wage?

MR. HARVIE: No.

MR. REAUME: You do not establish a basic hourly wage? In other words, the fellow on the truck, the driver of a truck is working on an arrangement of a commission with you?

MR. HARVIE: In some cases.

THE CHAIRMAN: It is not the Minimum



Wage Act. That has nothing to do with the Labour Relations Act. Let us confine ourselves to the Act we are dealing with.

MR. REAUME: I wanted to see if I could draw some form of comparison between the hourly rate being paid by this group and those which are organized bona fide groups.

MR. HARVIE: I would say that varies. I do know some are paid fifty, fifty-five and sixty, but I couldn't give you the entire picture.

MR. REAUME: What do you mean fifty, fifty-five and sixty?

MR. WATSON: It is an amount of money set aside from your earnings with your truck that you pay your driver per week. I pay my driver so much money a week. He does not get paid on an hourly basis. He gets paid so much a week whether he works or whether he doesn't.

MR. MYERS: How much does he get?

MR. WATSON: I think that is a personal question.

THE CHAIRMAN: I do not think we are concerned with that.

MR. MORNINGSTAR: You are not opposed to them being organized if they have more than one truck?

MR. WATSON: No.



MR. HARVIE: We have never attempted to interfere in any way, shape or form.

MR. MACDONALD: Is the fact that eighty per cent. of your membership are individual owners and have only one truck -- is this intentional? I mean, are you keeping the organization for the most part to the man who owns and operates his own truck?

MR. HARVIE: No.

MR. MACDONALD: And the very few who have extras?

MR. HARVIE: No. It is open to all owners of dump trucks, whether they have one, two or three. It makes no difference to us.

THE CHAIRMAN: In other words, you do not confine the owner to the ownership of one vehicle?

MR. HARVIE: No.

MR. MYERS: It has been suggested to us that the independent truck owner is very much like a carpenter; instead of having a bag of tools, he has a dump truck.

MR. WATSON: We understand the carpenter is paid an hourly rate. We are not.

MR. MYERS: What I want to know, if you can tell me, your membership was 650 in this area. Do you comprise most of the individual truck owners? Are there truck owners who would like to belong to the



Teamsters' Union that you know about?

MR. WATSON: Not members of our Association, owner operators, yet there are drivers --

MR. MYERS: No. Owner operators, how many of them would be satisfied with becoming members of the Teamsters' Union, do you know?

MR. WATSON: Not too many that we have contacted.

MR. MYERS: You do not have very many?

MR. WATSON: Not to my knowledge.

MR. YAREMKO: You say you have 650 members. How many dump truck owners would there be in this area which is covered by you. Do you know that?

MR. WATSON: We could not say. We don't know.

MR. YAREMKO: Could it be a thousand?

MR. WATSON: It could be a thousand or fifteen hundred, we don't know.

MR. MACDONALD: You began your reply to Mr. Myers by saying a carpenter is paid on an hourly rate. Were you going to say that normally your men aren't?

MR. WATSON: The individual owner is not paid on an hourly basis. He is paid so much a ton mile, or so much a yard mile. He is not paid on an hourly basis at all. He is paid for his services.

MR. MYERS: The Teamsters suggested to us





that their services were highly beneficial to the owner operator because they got fair rates with pit owners which would not have been obtained if they had not employed their services. You do not agree with that?

MR. WATSON: I don't agree with that.

THE CHAIRMAN: Anything on page 2, gentlemen?

MR. REAUME: On page 2, at the bottom of the page, right at the very bottom of the page, you say that the Teamsters' Union attempted to certify or get certification for a group of the operators.

MR. WATSON: Yes.

MR. REAUME: Are you absolutely certain it was them?

MR. WATSON: Personally, I am not absolutely sure.

MR. REAUME: But you are making a statement here. I am asking you if you are absolutely certain it was them. The information I have is that it was not them at all. I don't think that you or anyone ought to be making statements in a brief that are absolutely wrong and false.

Now, the information that I have is that the Teamsters' Union made no such application; that the application was made by one Mr. Kimber, of Kimber & Dubin, who at that time was acting for the automotive



transport people, who ~~are~~ people who are absolutely opposed to the ideas of the union. Now, the point I am trying to straighten out is this: are you absolutely certain?

MR. HARVIE: Could we defer the answer to that question?

MR. REAUME: Yes, you could. I just wanted to say again, that you are making a pretty broad statement here. It is a broad statement.

MR. HARVIE: I would like to prepare an answer to that, if you would agree to that.

MR. REAUME: Well, I will agree, of course. I just want to say the statement evidently is wrong.

THE CHAIRMAN: Well, the information you have received in the course of the preparation of this brief is to the effect that there was one instance when the Teamsters' Union attempted to obtain certification....

MR. WATSON: Yes.

THE CHAIRMAN: I think we should give Mr. Harvie a right to get the answer to Mr. Reaume's question.

MR. YAREMKO: Mr. Metzler, do you have any knowledge of that?

MR. METZLER: No, I wouldn't. It could be checked, of course. But I note, if you go over to



page 3, there is a reference "...we are only aware of one instance when the Teamsters' Union attempted to obtain certification for a group of independent owner operators who were engaged in supplying their services for the Markham Sand and Gravel Company". Maybe you can pin that down by asking the Labour Relations Board to actually give us whatever information is available. But personally, I know of none.

THE CHAIRMAN: Anything else on page 2? Page 3, gentlemen?

MR. WREN: Do any of your members belong to the Automotive Transport Association?

MR. WATSON: A few, yes.

MR. WREN: Are they making any overtures toward your group to enlarge that group?

MR. WATSON: No.

THE CHAIRMAN: You refer in the second last paragraph on page 3 to **specific** instances where unlawful pressures and intimidation and coercion have been exerted by the Teamsters' Union. Can you give us some illustration? You go on further on page 4 and say you have certain evidence in the form of receipts.

MR. HARVIE: We have some receipts here, Mr. Chairman, and if necessary, the men who paid this money over to the Teamsters' Union would be willing to testify in front of this committee.

THE CHAIRMAN: Who signed the receipts?



MR. HARVIE: This one is Gerald Hie.

THE CHAIRMAN: What rank has he got?

Let us see one of the receipts?

MR. HARVIE: (Produced)

THE CHAIRMAN: These are receipts on the form of Local 230, the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers' application for membership; John Robert Watson -- who is he? You?

MR. WATSON: That is me.

THE CHAIRMAN: This is signed by Jack Watson. Is that you?

MR. WATSON: Yes, sir.

THE CHAIRMAN: And received by George Rumbel, is it?

MR. WATSON: I think that is the name. It is pretty hard to make out there.

THE CHAIRMAN: Can you tell us who that might be, Mr. Thompson?

MR. THOMPSON: I wonder, sir, if I may see the receipt.

THE CHAIRMAN: Yes, of course.

MR. THOMPSON: We have, sir, no -- there is no agent of Local 230 by the name of George Rumbel.

THE CHAIRMAN: Well, there is George Swan.

MR. THOMPSON: There was a George Swan,





Mr. Chairman, who is not with the Teamsters any more.

THE CHAIRMAN: How would this fellow come into possession of these receipt forms?

MR. THOMPSON: Well, sir, at the time -- I believe I stated the other day, I would have to check whether it is a legitimate receipt. There are certain books which were given out to people to organize the drivers of these various companies.

THE CHAIRMAN: Well, wouldn't the people to whom you gave those books be agents of your union?

MR. THOMPSON: I suppose, sir. I don't know the legal part of it. But technically they perhaps could be, but whether this money was ever turned in to the union would be something that I would have to check. I would not know.

MR. MYERS: We don't care...

MR. THOMPSON: It may be - these books were handed out to various people and if this man then takes it upon himself to sign up certain drivers, independent owners and issue a receipt, he might have kept the money himself, because there were many books that were never turned back in to us that we were never able to recover.

THE CHAIRMAN: Thank you. Mr. Watson, what I cannot understand about your position is this: here you come and complain of this thing, and yet you allow yourself to become a party to it by signing this



Application?

MR. WATSON: Mr. Chairman, I had no choice.

THE CHAIRMAN: Why do you say you had no choice?

MR. WATSON: It was a matter of signing that paper and handing Five Dollars to that man or I wouldn't have got home that night.

MR. REAUME: Why?

MR. WATSON: Because there was two hundred men that threatened us.

THE CHAIRMAN: What did they say?

MR. WATSON: "That you pay up or you don't get home."

THE CHAIRMAN: Was that actually said to you?

MR. WATSON: Yes, sir.

THE CHAIRMAN: You will be prepared to take your oath to that?

MR. WATSON: Yes, sir.

THE CHAIRMAN: Well, if that condition exists, it should certainly not be tolerated?

MR. HARVIE: Mr. Chairman, I would like to say, there are many other members of our Association who will come here and tell you the same thing.

MR. JACKSON: I point out to the committee, Mr. Chairman, that this is a sort of -- what is contained



in this brief in the pages that we have read and the pages we are about to read, is a type of secondary boycott and coercion, which I was trying to bring out before. This probably explains it better than I did. I could not get any information from Mr. Dodds; as a matter of fact, he was, with all due respect, not telling the truth in many instances.

MR. MYERS: Mr. Chairman, do you think it will be advisable to get these chaps here?

THE CHAIRMAN: Well, I was just going to put this on the record. Mr. Watson and Mr. Harvie have produced receipts showing application for membership in Local 230 in the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers Union from the period of October 25th to October 29th, 1956, inclusive, application signed by John Sheenan of Elgin Mills; Jack Watson, Rural Route No. 3 -- that is, Jack Robert Watson of Rural Route No. 3, Newmarket; Easil Plaxton, Oak Ridge; H. B. Armitage, 47 Madolph, Toronto; William Woods, 268 Richmond Hill; John E. Dowdall, Keele Street, Maple, Ontario.

Those are the receipts that you have presented to us?

MR. HARVIE: That is right.

MR. WATSON: There are a lot more.

THE CHAIRMAN: The receipt in the case of Sheenan shows it was received by Gerald Hie, I think it



is. Jack Watson, received by George Rumbel, it would appear to be. It is hard to make it out. Basil Plaxton by Gerald Hie; Armitage by James - possibly - Martin -- James Martin, I think. William Woods, received by James Martin.

These men who signed these receipts on behalf of the union represented themselves to be the union representative in each case, as on the form?

MR. HARVIE: Mr. Chairman, I think we can gather up a lot more receipts from amongst our members.

THE CHAIRMAN: Well, I do not think we are interested in that.

MR. REAUME: What does that prove?

THE CHAIRMAN: Well, Mr. Watson says in his case it proves either he puts up the five bucks and joins the union or he does not get home that night.

MR. REAUME: No. I am talking about the point other than this threat, and, of course, that would be subject to your evidence and the evidence of the other people who were there, too. But the mere fact that a union organizer accepts five dollars from you, I don't see anything wrong in that in itself. Now, if he made a threat, of course, that is something else. Now, this man here said that there were a large number of people there when this threat was made.

THE CHAIRMAN: No. He did not say they were there. He said there were two hundred men there,





that the organizer could enforce his demands, is the inference that has been left.

MR. JACKSON: Do you agree with what is on these pages? Do you go along with it?

MR. REAUME: I don't know whether it is a fact or not. I say if it is true, it is wrong...

MR. JACKSON: How can you assume it is true?

MR. REAUME: I am not assuming anything at the moment.

THE CHAIRMAN: You say, Mr. Watson, you are prepared to take your oath that this actually happened in your instance?

MR. WATSON: That is right.

THE CHAIRMAN: That you were told you would not be allowed to go home?

MR. WATSON: Yes, sir.

MR. WREN: I suggest, Mr. Chairman, the witness should be sworn now.

THE CHAIRMAN: Yes. Do you have a Bible, Mr. Perkins?

MR. MYERS: Mr. Chairman, I would like to say, while we are waiting for the Bible, I would like to hear all the witnesses which can be produced dealing with this matter, and I would also suggest that we subpoena the people who gave the receipts.

MR. REAUME: Well, I think even more than



that, if we are going to have people here as witnesses, we should have people from both sides, not just from one side.

MR. MYERS: That is right.

MR. MORNINGSTAR: Mr. Chairman, I think Mr. Myers is expressing my sentiments one hundred per cent. This thing should be investigated all the way through.

THE CHAIRMAN: Have you got the Terms of Reference of this Committee?

MR. MACAULAY: I understand the Resolution of the House covers taking evidence on oath.

THE CHAIRMAN: Mr. Watson, will you kindly come forward here? Give me all of the receipts. Take the Bible in your right hand, please.

JOHN ROBERT WATSON, Sworn:

THE CHAIRMAN: Now then, Mr. Watson, you have produced a receipt dated October 29th, 1956, No. 2981 of Local 230, the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, showing an application for membership by you, showing the payment by you of Five Dollars, to one George, apparently, Rumbel - I am not sure if that is his name; showing the date of your birth to be May the 10th, 1916, and that you reside at Rural Route No. 3 at Newmarket,



Ontario, and that your phone number is Stouffville 6303, and that you are a trucker by occupation?

MR. WATSON: The number has been changed, sir.

THE CHAIRMAN: Well, at that time?

MR. WATSON: Yes.

THE CHAIRMAN: Now, would you be good enough to give to the committee the circumstances under which you signed this application for membership?

MR. WATSON: I had a load of gravel on my truck and I was possibly a mile from the pit, the pit being at Holt, Ontario. We were going on to Bradford at the Department of Highways' job at that time. There were approximately two hundred men. We were told to take our load back to the pit and dump it. We were told if we didn't do that, we would not get home safely. I turned my truck around; I took my load back to the pit and dumped it. As soon as I had the load off my truck, this Mr. Rumbel, whoever he might be, I don't know the man to see, demanded that I give him Five Dollars.

THE CHAIRMAN: Yes.

MR. WATSON: If I wanted to carry on and go home.

THE CHAIRMAN: Yes.

MR. WATSON: Now, I had to give him Five Dollars, but I got my receipt and I carried home from



there.

THE CHAIRMAN: Did you re-load your truck on that occasion?

MR. WATSON: No. I went home empty.

MR. MACAULAY: Did they tell you why you had to take your load of gravel back and dump it?

MR. WATSON: No.

MR. MACDONALD: Was this the end of the day's work?

MR. WATSON: No. This was -- I am not sure. It was in the afternoon. I am not just too sure what time it was, but it was during the normal day's work, and I believe in the forenoon.

MR. REAUME: I wonder if I can ask you, I want this person who said that you had to go back with the load?

MR. WATSON: Who would it be?

MR. REAUME: Yes. Who was that person?

MR. WATSON: That I can't say. There was a number of fellows crowded around the truck at that time. Rumbel could have been amongst those men. I don't know.

MR. REAUME: You don't know who it was that told you to go back?

MR. WATSON: No.

MR. MACAULAY: Were you the only truck?

MR. WATSON: No. There was a number of





trucks there. They faced the same circumstances that I faced.

MR. MACAULAY: But that turned around and went back and dumped this load, were you the only one?

MR. WATSON: That dumped the load?

MR. MACAULAY: Yes.

MR. WATSON: No. There were several others.

MR. MYERS: Did you know any of these men?

MR. WATSON: That dumped the load?

MR. MYERS: No. The two hundred men that were around you?

MR. WATSON: I would say I would know some of them, yes.

MR. MYERS: Do you know their names and addresses?

MR. WATSON: Off hand, no.

MR. MYERS: Could you find that out?

MR. WATSON: Yes.

MR. MYERS: Will you?

MR. WATSON: Yes.

MR. MYERS: Well, who were they?

MR. WATSON: They were truckers the same as myself, fellows I know.

MR. WALSH: May I ask one question?

THE CHAIRMAN: Yes.

MR. WALSH: This man that you gave the Five Dollars to, did he say who he represented?



MR. WATSON: Yes, he did. Well, he had a union book to show us.

MR. WALSH: Well, what did he say?

MR. WATSON: He just said he was from the Teamsters' Union.

MR. WALSH: He said he was from the Teamsters' Union?

MR. WATSON: Yes.

MR. WALSH: And what conversation did you have with him? Did he want you to join?

MR. WATSON: Yes. He told us we had to join.

MR. WALSH: He said you had to join?

MR. WATSON: Yes.

MR. WALSH: And he had a book?

MR. WATSON: Yes.

MR. WALSH: He produced the book?

MR. WATSON: Yes.

MR. WALSH: Yes.

MR. WATSON: That receipt was torn off a receipt book he had with him.

MR. WALSH: Did you ever see this man before?

MR. WATSON: No, I never did.

MR. WALSH: Have you ever seen him since?

MR. WATSON: No, I have not. I wouldn't know him if I seen him.



MR. JACKSON: Are you still a member of the Teamsters' Union?

MR. WATSON: No, sir.

MR. JACKSON: Do you pay dues?

MR. WATSON: No, sir.

MR. JACKSON: Have you a card?

MR. WATSON: No. I have not. That is all I have there.

MR. WREN: When he made that suggestion to you that you might not get home, what inference did you draw from that statement? - that you might suffer bodily injury?

MR. WATSON: Yes.

MR. WREN: Did he say anything more than that, that you might not get home?

MR. WATSON: He didn't say we might not get home. They told us we would not get home.

MR. WREN: You would not. But did he add anything to that to indicate it might be a threat of physical violence?

MR. WATSON: Well, that I couldn't say. That is quite sometime ago.

MR. MYERS: Is this the only incident of the kind that happened to you?

MR. WATSON: Yes.

MR. MYERS: And did this practice cease after the formation of your Association? Are you faced with



this sort of thing now, or are you not?

MR. WATSON: More or less.

MR. REAUME: Well, what does that mean?

MR. WATSON: We held a meeting on July the 15th, I believe, wasn't it?

MR. HARVIE: What meeting was that? Yes.

MR. WATSON: We held a membership meeting at Maple on July 15th.

THE CHAIRMAN: What year?

MR. WATSON: 1957. And we were both personally threatened by telephone that we wouldn't arrive at that meeting. Now, if that has any bearing on your question...

MR. MYERS: I didn't hear that.

MR. WATSON: We were threatened by telephone conversation. From whom, we don't know.

MR. MYERS: You do not know?

MR. WATSON: No.

MR. MYERS: Did you go to the meeting?

MR. WATSON: Yes. We were escorted there by the Ontario Provincial Police, and the City of Toronto detectives.

MR. MYERS: The police went with you?

MR. WATSON: Yes. We were escorted all the way.

MR. WREN: Have any of your members to your knowledge suffered physical violence? Have they ever been struck by anybody purporting to represent a





union?

MR. WATSON: I don't know. Off hand, I don't know.

MR. HARVIE: No, I don't think so. I can't recall any incident, off hand.

THE CHAIRMAN: Have any of them had their property damaged?

MR. HARVIE: Yes.

MR. WATSON: I have a letter here, if you will allow me to read it. It does point out some ---

THE CHAIRMAN: Is that this letter here?

MR. WATSON: Yes.

THE CHAIRMAN: Would you circulate that letter among the other members of the committee, please?

MR. MYERS: Did you report the incident to any Crown Attorney or police officer?

MR. WATSON: Are you speaking of the action --

MR. MYERS: Of the two hundred men?

MR. WATSON: At that time the Ontario Provincial Police were touring the areas of violence, as we called it.

MR. HARVIE: This strike continued from the time of these receipts in October until the 11th of November. Now, I am very well acquainted with this because I was the first man who decided to go back to work in the Stouffville area. The strike had already



cost me twenty-five hundred dollars, and I decided that nobody was going to stop me any farther. So I went back to work. About ten o'clock that morning another truck joined me; by that night we had about four trucks working. Now, that bunch of trucks that went back to work increased daily for, I would say, a period of ten days. Now, during that ten days, at the end of that ten days, I would say there was probably half the trucks in the Stouffville area back to work.

Now, during this period we had from two to four carloads of Provincial Police following us pretty well along the highway all the time.

THE CHAIRMAN: At your own request?

MR. HARVIE: Yes, at our own request. And I think I am right in saying this, and probably at the request of some of the pit owners who wanted their material delivered. I am not sure, but I presume that they, too, requested them.

MR. WREN: Mr. Watson, you refer, first of all, to paying this Five Dollars that you allege to be under pressure, and then you later refer to something like seven hundred and fifty dollars having been paid by someone to the union to cover, I would presume, all of the owner operators in that area. Did this occur on or about the same time?

MR. WATSON: No. This occurred just this past fall, I think in September.



MR. WREN: That was later on?

MR. WATSON: Yes.

MR. HARVIE: That is set out on page 6.

MR. WREN: Yes. But do you know or is it just hearsay that the contractor paid the money to the union?

MR. WATSON: We don't know who paid the money to the union. We only have the union books here to show that someone paid the union. Our members did not pay the union.

MR. WREN: You received evidence of membership in the union for which you did not pay?

MR. WATSON: That is right.

MR. HARVIE: These books were given to five of our members and it shows right in the books that they are paid-up members.

Now, these men will come here and testify that they did not pay the Teamsters' Union anything and yet they got those books paid up.

THE CHAIRMAN: There is produced five books, official dues book, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, organized October 1st, 1903, affiliated with the American Federation of Labour: "This is to certify  
in  
"that/consideration of application for  
"membership, duly signed and filed,  
"Harold Agnew was granted membership



"by General Truck Drivers' Local 879,  
"Hamilton, Ontario".

You say that the information you have from this man is that he never paid any money for membership in this union?

MR. HARVIE: That is right, sir.

MR. WREN: As far as you know, did he file an application for membership?

MR. WATSON: I don't know that.

MR. WREN: It states in the book that "on receipt of your application".

MR. WATSON: He may have signed a membership card. That we don't know, sir.

MR. HARVIE: The understanding we have is this official Mr. Fisher from the Teamsters' Union in Hamilton came to him in Milton and took these men who are members of our Association and who refuse to have anything to do with the Teamsters' Union -- took them somewhere, I don't know where, and arranged everything so that they would become members of the union, and then they were allowed to continue on this job.

MR. MACDONALD: But you don't know whether they actually signed an application?

MR. WATSON: We never saw one.

MR. HARVIE: We don't know anything about that.

MR. WREN: This man you are speaking of from





Hamilton, is he also affiliated with Local 320?

MR. HARVIE: We don't know.

THE CHAIRMAN: It does not say so here. There is space on the page for street, city, state and social security number, strange to say, but there is nothing filled in.

MR. MYERS: Mr. Chairman, do they bear the signature of the officer who issued them?

THE CHAIRMAN: No.

MR. HARVIE: We noted, Mr. Chairman, that during the time this little affair was going on in this particular job, that there was some dispute between this local in Hamilton and the local in Toronto as to who had jurisdiction over that territory. But apparently the guy from Hamilton went out because he is the man that issued the book.

THE CHAIRMAN: It refers to Union Hall, 181 James Street North, Hamilton, I presume, number 8Y64114.

MR. MACDONALD: Mr. Chairman, there is one aspect of this that puzzles me a bit, and that is you are not certain whether or not they made application. Your guess would be that they did not make application?

MR. WATSON: We don't know.

MR. HARVIE: Yes, our guess would be they did not; but we do not have information to



substantiate that statement.

THE CHAIRMAN: Could you obtain that information?

MR. HARVIE: Yes, we can, sir. And, as a matter of fact, I am quite satisfied that these men would be quite happy to come here and tell you just what happened.

MR. WREN: A good way to settle that, Mr. Chairman, if I might suggest, would be to have this contractor who is alleged to have paid the money come here and testify under oath to tell us whether or not he did.

MR. WALSH: Could I ask the man one question there?

THE CHAIRMAN: Yes.

MR. WALSH: I notice he refers to the threats of the union. Who has the personal knowledge of that? You?

MR. HARVIE: Yes, we have, sir.

MR. WALSH: Is that correct?

MR. HARVIE: Yes, it is. Definitely correct.

MR. WALSH: "In face of threats from the union, we decided to go back to work and in doing so, our trucks were badly damaged: that is, radiators being poked in with iron rods..." Did that take place?

MR. HARVIE: Yes, it did, sir. It got so



bad at nights, special flood lights were put up at nights and we parked all our trucks in that yard and had two guards guard them everynight.

MR. WALSH: It says, "flexible brake lines were severed"; is that true?

MR. HARVIE: Yes, sir.

MR. WALSH: "Windows were broken", is that right?

MR. HARVIE: Yes, sir.

MR. WALSH: "Truck tires were drilled and slashed"?

MR. HARVIE: Yes, sir.

MR. WALSH: What part of the tires would that be? Did you see them drilled and slashed?

MR. WATSON: Actually we didn't see that.

MR. WALSH: You did not see that?

MR. WATSON: We just know they were, that's all. The Association at that time reimbursed the operator of that truck for the price of two tires.

MR. HARVIE: That were damaged overnight.

MR. WALSH: Do you know anything "sugar and varnish was also put into gas tanks"?

MR. HARVIE: Yes, sir.

MR. WALSH: You know that?

MR. HARVIE: Yes, sir.

MR. WALSH: "Completely ruining the motors"?

MR. HARVIE: Yes, sir.



MR. WALSH: And "sand was also put into engine of the pit owner's equipment?"

MR. HARVIE: Yes, sir.

MR. WALSH: You know that?

MR. HARVIE: Yes, sir.

MR. WALSH: And "ruining the motors and engines". And how long was this damage carried on?

MR. WATSON: That carried on for six or eight months after.

MR. HARVIE: I would say six months, anyway, off and on.

MR. WALSH: And both of you have personal knowledge of that?

MR. HARVIE: Yes, sir.

THE CHAIRMAN: Gentlemen, it has just been suggested to me, and you might consider this, at the moment we feel that this matter should be referred to the Department of the Attorney General for a full investigation. I do not think it is going to be within our powers to do much about it; but if these things have occurred, I think that it calls - and as has been alleged under oath, I think that it is a matter that should be referred to the Attorney General's Department for investigation.

MR. YAREMKO: Mr. Chairman, I certainly think this is a serious thing. I should like to pose a question to Mr. Watson. Was this matter ever referred





to the Attorney General?

MR. WATSON: No, sir. I don't think it was. I don't think so.

MR. MACAULAY: You said the Provincial Police were there. Well, they are under the Attorney General's control?

MR. WATSON: Yes, they were there.

MR. MACAULAY: Every newspaper was slashed with it.

MR. WATSON: That is right.

THE CHAIRMAN: Would the members of your organization make this available to the Attorney General's Department, the members who are affected here?

MR. WATSON: I think they would, yes.

MR. MACDONALD: Mr. Chairman, as a lawyer, if this kind of thing allegedly has happened, how come it has not been investigated in the normal course of events?

THE CHAIRMAN: I would not know, Mr. MacDonald. It is a damnable situation, if it has occurred.

MR. MYERS: Mr. Chairman, I think we should investigate it ourselves.

THE CHAIRMAN: No, I don't think we should, Mr. Myers. I don't think it is within the terms of our reference, and if it has happened, it is within the Criminal Code, and if it is in violation of the



Criminal Code, it is in the prerogative of the Attorney General's Department.

MR. MACAULAY: Mr. Chairman, if this falls under the heading of secondary boycott, evidence as to it, I think you are quite right, if further steps are to be taken, that those who have some authority to do it and can carry it out are the people to do it -- the Attorney General.

MR. JACKSON: I so move.

MR. MACAULAY: I second the motion.

THE CHAIRMAN: Moved by Mr. Jackson, seconded by Mr. Macaulay that the allegations made by Mr. Watson and Mr. Harvie of the Individual Dump-Truck Owners' Association to the Select Committee be referred to the Attorney General for investigation by his Department.

MR. MACAULAY: My feeling, Mr. Chairman, is this: it is a serious allegation to the union, a large union involved in a great centre of our economy, and if it is untrue, I think they should be cleared.

THE CHAIRMAN: I think they should, too, if it is untrue. Mr. Thompson, did you have something to say at this time?

MR. THOMPSON: Mr. Chairman, just with respect to the motion, we, of the Teamsters' Union, will be very helpful and very glad to have this investigation carried on, and we will co-operate in every way we can



with the Committee or the Attorney General's Department.

THE CHAIRMAN: You have no objection to the motion as a representative of the union?

MR. THOMPSON: None at all.

MR. MACDONALD: Mr. Chairman, I agree the facts should be found out, but it strikes me as rather strange that months after this has taken place, action at this committee level should be necessary to ascertain if it has gone on.

THE CHAIRMAN: I can understand. Gentlemen, you have heard the motion. Is there any discussion on the motion?

MR. WREN: Mr. Chairman, just one question. Is it the intent of the motion that the Attorney General will provide this Committee with some report of its findings?

THE CHAIRMAN: I doubt if we have the power to ask him for such a report, if it is a matter of affecting the common good of the public, and it is a matter for the Attorney General in his capacity for the enforcement of the laws of this Province.

MR. MACDONALD: Mr. Chairman, I don't know the legality of this, but it strikes me as rather strange, if we are interested in this thing, that we should both ask for it and be given it.

MR. JACKSON: I think as far as the committee



is concerned, the point has been made. Mr. Macaulay has referred to it, the secondary boycott. I think, as a committee, this is as far as we can go.

MR. MYERS: Is this open for discussion now?

THE CHAIRMAN: I think it is, Mr. Myers.

MR. MYERS: I think we are avoiding our duty by not investigating it.

THE CHAIRMAN: I don't think, Mr. Myers, as a lawyer you would suggest for a moment that we have the power to investigate or to conduct any investigation that would have any result concerning what is obviously, if it did happen, a criminal offense against the laws of this country. That is a matter that is entirely within the jurisdiction of the Attorney General's Department.

MR. WREN: What about the matter of the alleged payment by the company of union dues?

THE CHAIRMAN: That is a matter within the power of this committee, sure.

MR. MORNINGSTAR: It would not be possible, Mr. Chairman and gentlemen, to secure these witnesses before this committee?

THE CHAIRMAN: I don't think that is going to do this committee any good or do the public at large any good.

MR. MACDONALD: Mr. Chairman, I don't want





to enter into the argument Mr. Myers is raising, but it seems to me this is pointing up to my earlier statement, if we want to make up our own minds as to what goes on in this so-called secondary boycott, the only point I am making is, I cannot see any reason why we should not have a statement from the Attorney General as to what he gets after his investigation.

THE CHAIRMAN: I have no doubt the Attorney General will give us a statement. But to include it in our motion that he be required to give us a report, I don't think we can require him to do it.

MR. MACAULAY: Mr. Chairman, let us ask him for it.

THE CHAIRMAN: We can ask him for it, but I don't think it should be made a term of the motion.

MR. REAUME: We have been faced with a lot of suggestions about picketting, for one thing, and I think this is exactly in line with what we have to investigate.

THE CHAIRMAN: Here we are concerned with an act of violence.

MR. YAREMKO: Mr. Chairman, during the course of our hearing, there have been a variety of allegations and opinions placed before this committee and we have not really seen fit to subpoena witnesses or ask for an investigation to clarify anything. We have expected it in the testimony of the witnesses



before this committee.

THE CHAIRMAN: We have a little different situation here, Mr. Yaremko.

MR. YAREMKO: Well, the committee can refer to the Attorney General, certainly, but what he does as a result of that investigation is completely up to the Attorney General.

THE CHAIRMAN: I think so, too.

MR. MACAULAY: Well, I think this is bearing on the recommendation we made, whether it is found to be true or not true, the point is if it is true or not true, what we want to do is to make sure that that kind of situation will not happen. If it did in fact happen, it will not matter to us in this committee.

THE CHAIRMAN: Gentlemen, you have heard the motion. All in favour? Carried unanimously.

MR. MYERS: No, not unanimously.

THE CHAIRMAN: You dissent to the motion, Mr. Myers?

MR. MYERS: Yes, sir.

MR. MORNINGSTAR: Mr. Chairman, before we vote on this matter ---

THE CHAIRMAN: We have already voted.

MR. MORNINGSTAR: You did not count the hands.

THE CHAIRMAN: All right. Those in favour



of the motion, kindly signify by raising the right hand? Seven.

Opposed? One, Mr. Myers.

MR. MACDONALD: Abstain one.

THE CHAIRMAN: I can't vote.

MR. YAREMKO: Mr. Chairman, as a point of order, it is not to be noted in the record of the committee who voted for or who voted against. It is either carried or defeated.

THE CHAIRMAN: Well, it is carried.

MR. REAUME: I don't think that is right. He can.

MR. YAREMKO: He can not.

MR. REAUME: Why?

MR. YAREMKO: By the rules of procedure of the committee.

THE CHAIRMAN: All right, gentlemen. Is there anything further in this brief?

MR. WREN: Mr. Chairman, there is that other matter of the allegation that \$750 was paid to this union by an employer. Now, how should we include that in the investigation?

THE CHAIRMAN: That is a matter for the committee. That is a matter for our own investigation. What page is that on?

MR. WALSH: Mr. Chairman, I was just handed this this morning, sir. I notice this says Mr. Ferguson,



the solicitor, is here and I was wondering could we not have a statement from him? He would have some information to give about that.

MR. WREN: He is solicitor for whom, sir?

MR. WALSH: He is solicitor for the Dump-Truck Association.

THE CHAIRMAN: Could you give us any information, Mr. Ferguson?

MR. FERGUSON: Mr. Chairman and gentlemen, the original letter, which I had nothing to do with, contains an allegation of a payment of \$750.

THE CHAIRMAN: Yes.

MR. FERGUSON: From the information I received, I told the officers of the Association that they would not be justified in making that statement at this time before the committee, but rather they should state that from the information they had, money had been paid but they were not able at this time to designate who had paid it.

THE CHAIRMAN: Well, was the company involved the Hayword and Pickett Gravel Company?

MR. FERGUSON: That is my instruction, yes.

THE CHAIRMAN: And they are located at Milton?

MR. FERGUSON: Yes. And that the sub-



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contractor was Antici contractor, as outlined.

THE CHAIRMAN: Well, if it meets with the approval of the committee, Mr. Perkins, would you communicate with these people and instruct them that we would like to have a representative from each here before this committee at some date that would be convenient to them and to us? I imagine it is going to have to be after the session. Does that meet with the approval of the committee, that suggestion? Would you see that that is done, Mr. Perkins?

MR. PERKINS: Yes.

THE CHAIRMAN: Now, is there anything further in this brief, gentlemen?

MR. MACDONALD: Mr. Chairman, on page 7, in fact, implicitly throughout the whole, it seems to me that the general proposition of this brief presents us with some problems as members of the committee in legislature, because in effect, what you are asking for is that the Act should exclude, in your instance, Independent truck owners. But there are circumstances elsewhere in the Province where exclusion of it is not necessarily in the best interests of labour. For example, let me cite this specific instance: An issue now being fought out in Northern Ontario is the question of whether or not it is possible for a pulp and paper company through independent truck drivers to have a proportion, at least, of



their pulp wood brought into the mills, and there have been some industrial disputes over this, and I think that sooner or later the only solution to this -- in part it circumvents the bargaining unit within the mill -- is going to be that these people are, in effect, in the same position to the companies as all workers, and therefore, they are eligible as bargaining units.

Now, it is a somewhat different circumstance to your particular one here. If I understand the presentation of your case correctly, your suggestion that the independent truck owners can not be brought under the Labour Relations Act is going to have application throughout the whole province. I just raise that, Mr. Chairman, as a problem we will have to face.

MR. MACAULAY: The individual truck owners in Northern Ontario are using their trucks in connection with the one company, and that one company is the only person who can hire them, and therefore, in that sense, they are really employees of that company even though they own their own trucks. But that is different to the situation where a truck owner, owning his own truck, has twenty or thirty local gravel pits to go and haul for; so they are not, obviously, anybody's employees.

MR. MACDONALD: I would agree.



MR. MACAULAY: May I ask Mr. Watson and his associate this: you are not considering supplying for a single company; you do not have that in mind, do you?

MR. HARVIE: Before I -- I don't know what the circumstances are about these truck owner operators that you refer to, but I can not see any truck owner operator who is, in effect, classified as a businessman coming within the scope of the Labour Relations Act for union activity.

MR. MACAULAY: Well then, what about this, if I am not being presumptuous in saying it to you -- it is possible you may come back to see us again, we may have occasion to have you back because you were going to find out some additional things about which you were asked by my colleague -- would it not be possible to make some inquiry from this group of individuals in the north who are involved in this problem? Apparently it is a serious problem to them and their views may not coincide with yours, but I think in all fairness that you would not want to speak for all men who own trucks individually without having sought their views, and if necessary, you can disassociate yourself from them, so that you are separate.

MR. WATSON: They are owner operators that Mr. MacDonald is speaking of?



MR. MACAULAY: Mr. MacDonald will give it to you after the meeting. But will you do that?

MR. WATSON: Yes.

MR. MACDONALD: All of your members are in the immediate Toronto or near environment of Toronto?

MR. WATSON: They come from as far away as Kitchener, Midland, Oshawa.

MR. REAUME: It is all around Toronto.

THE CHAIRMAN: Anything further, gentlemen? Page 8? Page 9? Any further questions?

MR. REAUME: Going back to page 2, I asked a question earlier, are we going to have the answer now, today or next week?

MR. WATSON: We will have to get that answer for you.

THE CHAIRMAN: You know, it is likely, gentlemen, that you will have to come back before this committee, and at that time, I would direct you to bear in mind the question that Mr. Reaume has raised concerning the statement in your brief on page 2: "May we say that we are only aware of one

"instance when the Teamsters Union

"attempted to obtain certification"

and so forth, and he has intimated to you that his information is that this application was not made by the Teamsters' Union.





MR. HARVIE: Yes. We will get all the information we have gathered together and will be very glad to come back.

MR. REAUME: And I also stated the information which I have indicates that the application was made by the Automotive -- what do you call it?

MR. HARVIE: The Automotive Transport.

THE CHAIRMAN: Mr. Metzler, you can find out something for us.

MR. METZLER: I will try to get that information for you, gentlemen.

THE CHAIRMAN: Gentlemen, I want to thank you for appearing here. You have made some very serious allegations, which you can realize are of some concern to the members of this committee. They are going to be very thoroughly investigated, and we will consider your brief very carefully in the light of the information that we obtain as a result of that investigation.

MR. WATSON: We thank you very much for the privilege of presenting this brief to you.

THE CHAIRMAN: We have another organization here that is scheduled to be heard at two o'clock. I now declare this meeting adjourned until two o'clock sharp.

-- Whereupon the hearing adjourned at 12:20 o'clock until 2:00 o'clock in the afternoon.



REPORTER'S NOTE: Mr. Perkins requests the Reporter to amend the brief from the Individual Dump-Truck Owners' Association which reads, at the bottom of page 2,

"May we say that we are only aware of  
"one instance when the Teamsters Union  
"attempted to obtain certification for  
"a group of independent owner operators  
"who were engaged in supplying their  
"services for the Markham Sand and  
"Gravel Company",

to read as follows:

"May we say that we are only aware of  
"one instance when an application for  
"certification was filed to represent  
"a group of independent owner operators  
"who were engaged in supplying their  
"services for the Markham Sand and  
"Gravel Company".

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Certified Correct,

John A. Coconile, E.A., C.S.R.

(page 3621 follows)



---On resuming at 2.00 p.m.

MR/PB

AGGREGATE PRODUCERS ASSOCIATION OF ONTARIO

THE CHAIRMAN: Gentlemen, it is now 2 o'clock and we are to hear a submission from the Aggregate Producers Association of Ontario, and the members of this delegation are?

MR. DUFF: I would like to introduce Mr. Sherman, our President. Mr. Alex Wylie, as their Executive-secretary. Mr. Earl Hansen, one of our directors, and I am J. M. Duff, the chairman of the Road Transport Committee.

THE CHAIRMAN: You know the procedure we follow?

MR. DUFF: I have been here before sir.

THE CHAIRMAN: Would you be good enough to read the brief, whoever is going to read the brief.

MR. DUFF: Mr. Wylie will read it.

THE CHAIRMAN: You may sit down if you want to while reading the brief.

MR. WYLIE: I prefer to stand. (Mr. Wylie reads brief. )

THE CHAIRMAN: Thank you very much, Mr. Wylie. Now gentlemen of the Committee, I ask are there any questions arising out of the matters referred to on page 1 of the brief?

MR. WREN: Mr. Chairman, for the record how many members do you have in this organization?

MR. WYLIE: Twenty-five producers at the present



time sir.

MR. WREN: Are they all in or around Metropolitan Toronto area?

MR. WYLIE: They are as far west as Kitchener, Preston and Kitchener to as far east as Oshawa at the present time.

MR. WREN: Is Mr. Connie Smythe a member of your organization?

MR. WYLIE: Yes sir. C. Smythe Limited of course is a member of the organization. Mr. Connie Smythe is not. His firm is.

THE CHAIRMAN: Anything with relation to "scope of our industry"? "Nature of our business"? Page 2, "co-operation between associations"?

MR. WREN: Paragraph No. 6, Mr. Chairman, the witness talks about arrangements made to get the material to the customer. Do you charge the customer on a mileage basis when you sell the gravel, or is it a firm price undertaken before you guarantee delivery?

MR. WYLIE: Mr. Chairman, we have a member of our delegation to whom I would prefer you to direct that question.

THE CHAIRMAN: Anybody who feels competent to answer the question may.

MR. WYLIE: I would just as soon he answered that.

MR. DUFF: The usual way, there are two types of course, there is the pick-up, what we call over the counter





sales. They are picked up at the pit generally with very short notice.

MR. WREN: I am referring to a man in Toronto, 131 Front Street, for example, who orders a load of gravel from a pit located at Bronte. How do you negotiate the price of that?

MR. DUFF: We get a call for a price. The price that we give is based on the value of the material in pit, plus the cost of haulage.

That cost is generally on either the existing or the anticipated, depending on when delivery is to be made, anticipated cost of the haulage.

MR. WREN: You do not have, for example, one price per yard.

MR. DUFF: No.

MR. WREN: For the whole city of Toronto?

MR. DUFF: No, that would be, you see as mentioned in here over half the cost of our delivered price on our material is taken up in trucking costs, and naturally competition from the various pits will take in a big -- will have<sup>a</sup>/big bearing on the price.

MR. WREN: I can understand that. Now, my further question is this; let us assume that you fix a price, a hypothetical price of \$.10 a yard at the pit to this customer in Toronto. You charge him \$10, I take it, plus the cost per ton mile to get that material to the site in Toronto?

MR. DUFF: Yes.



MR. WREN: Is that correct?

MR. DUFF: Yes.

MR. WREN: Now you pay the trucker exactly the charge you make for that cost of hauling, or do you extract an additional profit for the operation of hauling the gravel from the pit to the site?

MR. DUFF: Well now, there are different policies in different pits.

MR. WREN: This is very important for this discussion.

MR. DUFF: That may be, but in my case I will talk from our own company's point of view.

MR. WREN: Which is what?

MR. DUFF: That is J. C. Duff Limited. We operate in Brampton. When we give a price, we use a basic price in the pit, plus the cost of haulage, plus usually ten cents. Now there is a very good reason for the ten cents. We allow a two percent discount.

MR. WREN: Ten cents on what?

MR. DUFF: Ten cents a ton. It is all by the ton, Mr. Wren.

MR. REAUME: You are talking of a ton mile?

MR. DUFF: No, just a flat ten cents.

MR. WREN: Ten cents on what, a ton?

MR. DUFF: A ton, oh yes, a ton. Plus ten cents a ton. Now that ten cents is taken up with, we allow two percent discount, that would be two percent of the cost of the trucking, you see would take up quite a bit



of that.

We pay in addition, these trucks do have their own insurance, but as a liability policy in case anything should happen that we would be charged, would be at least thought liable for any damage to the truck, we carry extra insurance on those trucks. That is a cost in there, but that has never happened in my experience but it usually is to pay a lawyer to fight the case.

MR. WREN: What I am interested in knowing is this, let me put it this way, if I were a customer of yours, do you have any preference as to whether I come to your pit and pick up gravel or would you prefer to do the hauling yourself.

MR. DUFF: I would prefer to have them picked up, because there is not the cost. There are always cases of where there are bad debts and when you tie up bad debts for trucking too, that is a bit out of the pocket because you pay the truck.

MR. WREN: Then you are saying to me in effect that you would think, certainly your policy from your own company and you think it would be the policy of all the other members --

THE CHAIRMAN: He did not say that.

MR. WREN: They are all associated here. They are not here as individuals. You are saying in effect it was the policy of your association, any one of you can answer this, that there is no profit taken on the estimated cost of delivering the products?

MR. DUFF: I cannot speak for the other members



of the association.

MR. WREN: Is there anyone who can?

MR. SHERMAN: I can speak for our own company, Sherman Sand and Gravel Company of Port Credit. We have a singular policy of our own, that has nothing to do with anybody else's attitude towards the business at all.

We have a pit price for all our material, we will say a hypothetical value of one dollar a ton. That is for anybody who wants to come and pick material up at our gravel pit. Then if, for instance, some one from, as you say Front Street, No. 1 Front Street in Toronto wishes a load of material, we examine his location on our zoning map. We know exactly how many miles it is, and there is a prescribed charge set out for delivery to that customer in that particular zone.

We will take any hypothetical figure of a value of one dollar a ton to haul the material from our gravel pit to that particular point. That is the amount we have agreed to pay truckers who we hire in our area. There is no secret about it. It is open record for anyone to see. However, in our particular instance, we feel that we must charge that customer the dollar for material the dollar for haulage, and an additional ten cents which in our particular case is used for this particular aspect. That ten cents, it can vary from a nickle to thirteen cents, I believe if I am not mistaken, that is because we pay those truckers on Friday night of every week for the work they have performed to the Thursday night, the night before they have done a week's work.





That is cash on the line we have to put out to them.

However, that customer at No. 1 Front Street could very easily hold/<sup>us</sup>up for the money on the gravel and haulage until sixty, ninety, and a hundred and twenty days. It is not uncommon at all. We have to finance the cost of that trucking over that period of time. We also allow a discount to people who pay within forty days. They will get a two percent discount, and I doubt very much if there is any profit in it sir.

MR. WREN: Then in the case of your company you would say that as far as the delivery of the product is concerned, you take nothing other than a normal overhead for servicing an account?

MR. SHERMAN: Right, absolutely.

MR. WREN: You take no profit in the truck drivers' activity?

MR. SHERMAN: It is my experience, I am not talking about other truck driving companies, I have discussed this at quite some length with other companies and I can say it is their practice even to ignore that particular overhead in some cases, and in other cases they have a similar method to ours, but certainly I do not think the rate is beyond an overhead rate.

MR. WREN: You negotiate the rates, I am talking again of your own company, you negotiate the delivery rate to the customer and set up the details and so on?

MR. SHERMAN: Certainly.

MR. WREN: To what length do you consult the



truck owners about that?

MR. SHERMAN: They are fully cognizant about that thing, the mileage is on the map, and they can see it at any time and check it with their own.

MR. WREN: In setting up this rate on delivery, do you consult them beforehand?

MR. SHERMAN: We have made a practice of that, yes.

MR. MYERS: The trucking rates are arrived at by you in consultation with the members of the trucking association?

MR. SHERMAN: Let me put it this way, probably a little more like that. We operate our own trucks, and it is to some degree, it has been our practice to establish what we consider to be a reasonable profit for a truck to be operated by ourselves or anyone else, and we pay exactly the same rate as we set aside for our own trucks. They are satisfied with the rate.

MR. MacDONALD: In the instance where the operating  
but  
is done not by your own trucks/by independent trucks, have they ever come to anyone in your organization and in effect said the rate you have specified for so many miles is not adequate for our needs, and persuaded you to adopt a different schedule?

MR. SHERMAN: Yes, we have had people come and say to us in that manner, and say for example for some particular reason due to running into heavy traffic in the City, they would ask that we consider arriving at a better price in that particular area. Sometimes you find that the closest



distance between two points is not always available.

It may be there is a bad bridge in there, and they have to go around to get at it. . We may not ~~have~~ have noticed ~~on~~ the map they had to go around it. We investigate to find if they have a legitimate reason for their suggestion. We have never had trouble at all.

MR. MacDONALD: In other words, for the most part you fix the rates but there is sort of an informal as yet not clearly defined negotiating process for changing those rates?

MR. SHERMAN: Not necessarily, just as the occasion arises.

MR. REAUME: Do you own trucks, that is, do the owners of the pits own any of their own trucks?

MR. SHERMAN: In some cases, yes.

MR. DUFF: Mr. Chairman, due to the interest that the Committee has taken in that, and I noticed from the previous briefs that great interest has been taken in this, I prepared a few notes here which might be of interest, and also a possible solution to this. There is a problem here. I can outline the nature of our business a little more fully. I can do it now or maybe after the questioning on the rest of the brief.

THE CHAIRMAN: May we have you submit it to us a little later on Mr. Duff. Anything else?

MR. REAUME: When you hire a truck, or five trucks or more, whatever it happens to be, is there any preference shown as between a person who is driving a union truck, we will



say, or driving as a member of a union, or a person who owns the truck. Have you any preference at all?

MR. DUFF: Not as long as they are giving the service.

MR. REAUME: It is a matter of service, is it? Is it a matter also of price?

MR. DUFF: Of price.

MR. REAUME: The price has been fixed I presume?

MR. DUFF: I think Mr. Reaume --

MR. REAUME: I want to put the question the other way. I am asking you if this is what you say; we have five thousand tons of gravel that we want to haul eight miles away. Our price for hauling this gravel is so much. Will you do it at that price? Is that the way it is handled?

MR. DUFF: Mr. Reaume, I think that if I took this in the logical sequence as I suggested there, it would all come out in answer to your question.

MR. REAUME: We wanted to bring it out in our own way, if you do not mind.

MR. HANSEN: I think I can throw a little light on the picture as far as our firm is concerned. I believe it is the same with the others.

We negotiated with the Truck Owners Association last fall, on the 15th of November. We came up with satisfactory rates for both the trucking association and to suit ourselves.

MR. REAUME: That is the very point I am getting at. It appears as though you and the trucking people here are working in the game together.





Now what I am asking is this; what do you do when you know that a couple of truck people are organized? Are they out in the cold?

MR. WYLIE: I said that we negotiated rates with the truck association, Independent Truck Drivers Association.

MR. REAUME: Only.

MR. WYLIE: And it was arranged -- yes, because they were actually our truckers. We have been getting the work done through these same truckers now probably for the last eight or ten years.

MR. MacDONALD: Are any of the members of the Independent Truck Owners Association also members of the union?

MR. WYLIE: Not to my knowledge. Certainly not in our area, I feel certain of that.

MR. REAUME: Why is that?

MR. MacDONALD: Would it be fair to ask Mr. Watson?

MR. WATSON: There are I would say a few that have joined the union that do belong to our association. How many, I wouldn't say.

MR. MacDONALD: May I ask this further question of Mr. Duff, or the others. I would judge from this that there is a fairly close working relationship between your organization and the Independent Dump Truck Owners Association. Did you assist in any way, financially or otherwise, in the organization of the Independent Dump Truck Owners Association?



MR. DUFF: I can speak as far as our Association is concerned, financially no, definitely not. As far as the organization is concerned, as it was mentioned in the brief there has been considerable amount of discussion between the groups in solving problems, and when there are problems to be solved there are certain answers and collective talking on that would perhaps be taken as assistance if we had suggestions say, for instance.

THE CHAIRMAN: Nothing to do with the organization.

MR. DUFF: We had nothing, absolutely nothing to do with organizing their organization. We have discussed problems with them, but had no financial assistance given to them by us.

MR. MacDONALD: As an Association you had nothing to do with it?

MR. SHERMAN: Nothing that I know of.

MR. MacDONALD: No individual member of your Association shared in the organization or assisted in any way in the organization of the Dump Truck Owners Association?

MR. SHERMAN: If you consider assistance sir, by the fact that we made suggestions as to how we would, or how our Association would co-operate with theirs in the event that -- certain price structures were suggested.

MR. MacDONALD: I have heard it said, in your opinion is this wrong, Mr "Connie" Smythe assisted financially in the organization of the Independent Dump Truck Owners Association?

MR. SHERMAN: I doubt that very much, sir.

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MR. MacDONALD: You are not certain?

MR. DUFF: It has never come to our knowledge.

MR. MacDONALD: Never come to your knowledge?

MR. DUFF: No, sir. I think we have here the one man that would be able to tell you that besides the gentleman beside us of course.

MR. MacDONALD: Would Mr. Watson care to comment on that?

MR. WYLIE: Since I have had anything to do with the Aggregate Producers Association, I have seen the fees and dues that have been paid in to operate this Association, and there certainly has not been<sup>anything</sup> paid on behalf of the Aggregate Producers Association to the Independent Dump Truck Owners Association. I think that if Mr. "Connie" Smythe, as you claim has done so, that is entirely up to himself. I am not speaking on behalf of Mr. Smythe, although his firm is a member of our Association.

THE CHAIRMAN: I do not think anybody has claimed it. It has been insinuated.

MR. WYLIE: Our Association has not taken any part financially or otherwise to my knowledge, and I know as far as finances are concerned, we just do not have the finances behind us to help them in any way because we are only growing.

MR. MacDONALD: May I ask Mr. Watson, as far as he knows did Mr. Smythe assist financially in this Association?

MR. WATSON: Mr. Smythe has trucks in our Associa-



tion, as a member, associate member, and he has paid for the trucks and associate membership only.

MR. MacDONALD: On a normal membership basis?

MR. WATSON: Normal procedure.

MR. SHERMAN: Same as we all have. Most of our boys are members.

THE CHAIRMAN: He has not given you \$5,000 or \$10,000?

MR. WATSON: Not yet.

THE CHAIRMAN: Is there anything else on that, gentlemen? If not, let us proceed.

MR. REAUME: Just one question more on **this** page. When you want to hire some trucks, what do you do? Do you put an ad in the paper and say we have to haul a certain number of thousands of yards of stone, will you please tender? Do you that, or do you just call up one on the phone?

MR. DUFF: In the normal course of business, the way our business is set up, if we had to advertise, except on specific large jobs, and then it is done, or has been in the past. However, in the normal course of business that would be about two or three days too late.

THE CHAIRMAN: What you do is call a dispatch office?

MR. REAUME: That is the point I am trying to make. It is the same office that you call?

MR. DUFF: That is the only one that is set up that we know of.





MR. REAUME: That is a friendly working agreement between you?

MR. SHERMAN: Very.

THE CHAIRMAN: Do you want to make trouble?

MR. REAUME: I do not want to cause any trouble.

MR. HANSEN: It is as a matter of fact part of our contract with these people.

MR. REAUME: A cosy arrangement.

THE CHAIRMAN: The same as between supporter and leader of the Liberal Party.

Let us get on to page 2, "co-operation between associations".

MR. DUFF: Mr. Chairman, on that co-operation, I did not finish answering Mr. MacDonald on the co-operation.

THE CHAIRMAN: You like to discuss things that are not put to you, do you Mr. Duff?

MR. MacDONALD: He did not answer.

MR. DUFF: I did not quite finish, unless Mr. MacDonald is satisfied.

MR. MacDONALD: If you have anything more to add to your answer, I would appreciate that. I want as full an answer as possible.

MR. DUFF: It has to do with the setting up of this dispatch office. The truckers associations asked how they could be of the best service to us, our Committee, the Transport Committee said that the best service they could be to us is to establish a dispatch office where within one hour, two hours, we could have trucks when we need



them, and that was done.

MR. REAUME: That is the point I am trying to bring out. I am a union truck driver, so I want a job. I go over to <sup>you</sup> and ask for a job. You say no, I do not want you. I have an arrangement, right?

MR. DUFF: If the union had such a set-up and we needed trucks I would imagine he would take advantage of him, if the rates were right.

MR. MacDONALD: It may be just a coincidence that this kind of organizational development, both the Aggregate Producers and Dump Truck Owners Association have developed in the last year or so when the unions have taken an interest in the field. Again, it may be just a coincidence, although it appears to be a move to forestall unionism getting into the field. In fact, you imply it because you want the Act to so state.

MR. DUFF: We do want an efficient set-up. It may also be that we are interested in improving conditions in the business, and any improvement in methods of doing business is worth considering.

THE CHAIRMAN: That is, you want to run the business as you want to run it?

MR. DUFF: As efficiently as possible.

THE CHAIRMAN: You do not want anybody interfering with it.

Paragraph 9, gentlemen, "Our industry and labour relations". Page 3, "The status of the independent trucker, with respect to the Labour Relations Act".



MR. WREN: You say here, you are breaking down 325 trucks, and the other people say they have 650.

MR. DUFF: That may be very gratifying to the Dump Truck Owners Association. These figures were produced to us when we were preparing this brief back three months ago, or more. Since, they have increased their membership almost double. It must be gratifying to them. I see that the percentages are still not too far out.

THE CHAIRMAN: Page 4?

MR. MacDONALD: You see, Mr. Chairman, may I just make this remark as an observation. Paragraph 14, it says: "Surely the negotiating of prices for sub-contract work cannot be continued as a 'lawful activity' of a Trade Union".

Taking that within the context that I raised this morning, I think it has become and is likely to become increasingly the activity of the Trade Union in this important industry.

MR. JACKSON: It does not make it right or wrong.

MR. MacDONALD: Within this other context which is to come under our jurisdiction, if we change the Act, it is emerging as a fact by changing the Act we may make illegal something that now exists and has become an accepted practice.

MR. JACKSON: It does not make it right or wrong whether we should or should not.

MR. MacDONALD: I am not asking that for the moment.



THE CHAIRMAN: Gentlemen, let us not argue at this stage.

MR. REAUME: Is there a set hourly rate for trucks here in the area?

THE CHAIRMAN: He said \$10 a yard.

MR. REAUME: I am asking you if there is a set hourly rate when you hire a truck?

MR. DUFF: In our line of business it so/seldom happens, that I doubt if there is. The independent trucks that we hire are almost exclusively on the road, and of course, in our experience on a hourly basis, out of sight and in a coffee shop, and it is more on a piece work basis, much the same as any other business.

THE CHAIRMAN: Depends on what they haul?

MR. DUFF: Yes.

THE CHAIRMAN: It depends also how long it takes them to haul it?

MR. MACAULAY: You are not paying them to look pretty, you are paying them to haul goods.

MR. DUFF: That is right, certainly.

THE CHAIRMAN: Page 4 "incidents of unfair and illegal practice".

MR. WREN: You make a statement in item 15 here that truckers were beaten up. The previous Association this morning said that they could cite no instance where one of their members had been physically attacked.

You say here they were beaten up. Could you give us some illustration?





MR. DUFF: Actually, perhaps I should not even have included any of this. Had I known the Truckers Association were going to --

THE CHAIRMAN: You have included it, now can you answer the question?

MR. DUFF: I do not know except from hearsay.

MR. MacDONALD: You cannot document it?

MR. DUFF: No.

MR. MacDONALD: The other point, Mr. Chairman, again it is a comment, if you will forgive <sup>me</sup> / it is rather unusual that this organization should have presumed to have spoken on behalf of the Dump Truck group. Half of the brief is devoted to that.

MR. REAUME: They are friends. They are friendly. They have worked together.

MR. MACAULAY: Is there something wrong with being friendly?

MR. REAUME: No, I am just answering his question. I did not say there was anything wrong.

THE CHAIRMAN: It was not a question. It was a comment.

MR. MACAULAY: It is one of Mr. Reaume's more interesting comments.

MR. REAUME: Friendliness is fine.

THE CHAIRMAN: Shall we continue gentlemen being friendly.

MR. WREN: There is another statement there, "We were advised by our lawyers that a trade union could



not legally negotiate trucking rates for the truck owners or represent them in any way, since they were sub-contractors."

I would like to ask the Chairman, or our counsel who are both legal men, if that is so.

THE CHAIRMAN: Where is that, Mr. Wren?

MR. WREN: Paragraph 15, about half way down the page.

MR. WALSH: I would think that would be right.

MR. MacDONALD: If it is, it is going to throw our whole concept of organization of truck drivers out of gear.

THE CHAIRMAN: No, they are <sup>not</sup> employees, and the Trade Union could not legally negotiate or represent them in any way.

MR. WREN: They are doing it in my part of the country.

MR. REAUME: Sure they are.

MR. MacDONALD: Three times today I have been trying to point what the proposal here would be. It would make illegal something that now exists in fact.

MR. WREN: As I said the other day, if it were not for the unions the truck drivers, truck owners would starve to death.

THE CHAIRMAN: That is only in that particular section of the province.

MR. WREN: They are negotiating trucking rates up there. The statement is made here that it is illegal to do so. Is that so or is it not so?



MR. REAUME: It is so, but they do it.

MR. MACAULAY: They may be doing it, but that does not mean that it is something that is permitted under the Act.

THE CHAIRMAN: Nobody is doing anything about it, and as a result, they are not starving.

MR. MACAULAY: In fact, the Board so held that they were not a union which can be certified. The Board has held that.

MR. WREN: They have been certified. The Labour Relations Board have certified bargaining unions who negotiate rates for truckers.

THE CHAIRMAN: For truck owners?

MR. WREN: Yes. Are they doing something then that is wrong?

MR. MACAULAY: I would think so.

MR. MacDONALD: You see, your problem here is do you in advance lay down rules that develops what you might call a natural development? I tried to illustrate it with my friend Mr. Jackson a moment ago who is an insurance man.

If the Government were to lay down rules in advance in certain fields and say you cannot go into another one if he is licenced, he would say this was a sort of unfair kind of restriction.

MR. MACAULAY: You are always able to make arrangements.

MR. REAUME: Every day the Trade Unions are



MR. REAUME: Every day the Trade Unions are appearing on this type of work.

MR. WREN: Periodically the Labour Relations Board certifies Unions who are negotiating contracts with truckers. Is the Labour Relations Board doing the right thing or wrong thing according to the Act?

THE CHAIRMAN: Are they certifying the Union for that particular purpose or are they certifying that Union and then the Union gets into this by an agreement with the truck owners by saying now here we can help you and they say go ahead and help us. Is that the idea?

MR. MacDONALD: I think you are correct. I think this was a Union that was certified.

THE CHAIRMAN: Not certified for that purpose.

MR. MacDONALD: In the natural normal course of natural development, active negotiations in the truck field has become part of their activity.

MR. REAUME: What is wrong with that principle?

MR. MacDONALD: There is nothing wrong with the principle.

THE CHAIRMAN: They have not been certified for the specific purpose of negotiating a contract for that truck owner. They have been certified and because of their having been certified, they go to the truck owners and say now we can give you better facilities and help you.

MR. WREN: We do the same thing for plumbers.

THE CHAIRMAN: Page 5 gentlemen?

MR. JACKSON: We can argue that in Committee.





THE CHAIRMAN: Page 5, "secondary boycott action on Metropolitan Toronto job". "Bronte incident". "Comments and recommendations". Page 6?

MR. MACAULAY: Just as a matter of interest, I asked Mr. Thomson who is here today if he could enlighten me on this matter, and he says there have been certain certifications.

Rather than arguing it out further today, would it not be possible to find out sir what certifications there have been in relation to truckers, and the basis upon which they work, so that we are not at cross purposes?

THE CHAIRMAN: That is right. Could you tell us Mr. Thomson?

MR. THOMSON: The St. Lawrence Paper Company, Beardmore or Nipigon Mr. Chairman is a case that was approximately two or three months ago.

MR. MACAULAY: Mr. Thomson, possibly they were certified because they had helped employees of the company who were negotiating them. Sir, what I thought we might do is ask the Deputy-Minister if he would provide for us at some future meeting some statement in relation to that.

THE CHAIRMAN: Would you do that Mr. Metzler?

MR. METZLER: I would do the best I can.

MR. MacDONALD: If we could have somebody from the Board, this is a new field, who could come and enter into a give and take discussion.

THE CHAIRMAN: We were endeavouring to have Mr. Finkelman or Mr. Fine here but unfortunately they are out



of town.

MR. WREN: Let us take another aspect of it, Mr. Chairman. Where a Union has not been certified specifically for truckers, and I am thinking now, we will say perhaps the Lumber and Saw Mill Union. They may take into their Union operators of trucks. The Union in my opinion has every right to go to the employer and negotiate trucking rates for that truck owner.

MR. MACAULAY: They may, but the Act does not envisage that. That is Mr. MacDonald's criticism.

MR. WREN: This statement made in this brief says that the Act said it should not be done.

MR. MACAULAY: That is quite correct.

THE CHAIRMAN: Could we defer discussion on this matter until such time as we have some member of the Board here that could give us that? We can talk all around it and still not get anywhere I find.

MR. MacDONALD: We are on Page 5?

THE CHAIRMAN: We are on Page 6.

MR. MacDONALD: Page 5, we were not able to get any specific information on Paragraph 17 as to who paid this money. You have raised the same incident. Are you aware of who actually made the payment?

MR. DUFF: No sir. I went down as a representative of our Association to investigate it, and I got no further than the others.

THE CHAIRMAN: I have instructed the secretary to get in touch with the people who were involved, and we



will have an answer to that question.

MR. MACAULAY: Or who we were told were involved.

THE CHAIRMAN: Who we were told were involved. Page 6 gentlemen? Page 7, "conclusion".

MR. MacDONALD: Mr. Chairman in 24(a), I don't know whether this should be directed to the gentlemen in front of me or Mr. Metzler, "Since the Amendment in 1957 to Section 1(i) of the Labour Relations Act the Board now questions the previous decisions and feels that it has authority to certify an International Trade Union which has no existence at all in Ontario."

How can you certify a Union that has no existence in Ontario?

MR. METZLER: The statement is made that it has no existence in Ontario. I don't know whether you can give full force to the statement.

The situation is we found that applications were being made in the name of the International Union rather than the locals that are chartered here in the Province of Ontario, and in instances the International was certified as the bargaining agent. Now the question has been raised as to whether or not that was a valid certification.

MR. MacDONALD: For a non-existing local?

MR. METZLER: No, for International.

MR. MACAULAY: It was not active in a local that had been set up. They were being certified in the



name of the International, which after all does not operate **here** as an entity. They operate here as an entity at local level.

MR. METZLER: The question arises, I must be accurate on this, the question arises in part within the definition of a trade union before it was amended. Now, if you look at Section 1(i) trade union means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

I think that was the old definition you see. Now there has been added, making it more explicit the words Provincial, National and International Trade Union, because the question would arise as to whether or not an international union is actually an organization of employees. It might be considered an organization set up as an overall group which is not to be operated and function/through the locals. It depends on the way it was organized.

MR. MacDONALD: It is not possible, though, to certify an international until it at least has one local, is that right?

MR. MACAULAY: Yes, it is possible.

MR. METZLER: The thing is **this**, that even with an existing union, you take the U.A.W. let us take them as an example.

If that comes into existence down in Windsor, actually the U.A.W. through the international asks for certification as the bargaining agent, but the administration of the contract with the plant will be through maybe





local 195, which is the large composite local that generally operates in that area. It is already there.

MR. REAUME: Has been there for a long time.

MR. MacDONALD: What is the point of complaint here then?

MR. REAUME: I do not know.

MR. MacDONALD: I must confess on the surface it looked valid. Now I do not know whether it is valid or not.

MR. MACAULAY: Are you not really saying that locals should be certified and not the international in name only? That is the effect actually.

Before it starts functioning it should not just hand over a contract to a local, but the local should be certified.

MR. METZLER: That may be what it is.

MR. MACAULAY: Is that what you are saying?

MR. DUFF: Yes.

MR. METZLER: In other words, they want the recognition down at a local level.

MR. REAUME: How would that help them out in any way?

MR. METZLER: Well I had no opinion on the matter.

MR. MACAULAY: What do they say?

MR. DUFF: Unfortunately, our counsel is in Winnipeg.

MR. REAUME: Good place to be.



MR. MacDONALD: We could lend you half a dozen from here.

MR. DUFF: I think it has been discussed here before this Committee by far most ~~versed~~ gentlemen than I am on the law, on the legislation.

MR. MACAULAY: In any event, you were told that that is an anomaly by your lawyer and it should be looked into and that is what you are saying, isn't that right?

MR. DUFF: Yes.

THE CHAIRMAN: Anything further gentlemen? Now Mr. Harvey I understand that you would like to say something about my good friend "Connie" Smythe.

MR. HARVEY: Yes, I would. I would like to answer that question about did "Connie" Smythe contribute anything to our association.

Now first of all, let us say no, he did not. Neither did anybody else outside of our own members. Now I would like to make it clear that C. Smythe Limited had a certain number of trucks which were under the name of Material Trucking Limited.

Now Material Trucking Limited is an associate member of our association and as such pays its dues. Dues for associate members are a lesser due than ordinary members. Associate members do not have the privilege of attending association business meetings. They have no vote in association matters.

MR. MacDONALD: Which one of your rules preclude C. Smythe Limited or whatever it is, actually coming



in as a full member?

MR. REAUME: Is there any --

THE CHAIRMAN: Order. What is the question?

MR. REAUME: Is there any other associate member than C. Smythe etc.?

MR. HARVEY: Yes, there is. I can name you ten.

MacDONALD: How does that fail to qualify for full membership?

MR. MACAULAY: Could it have full membership, in short, if they wanted to?

MR. HARVEY: I am not prepared to say that, because it has never been discussed in our association. They were accepted in to start with as associate members, and to raise that to full membership has never been discussed.

MR. MACAULAY: Do you have a constitution?

MR. HARVEY: Yes, we do.

MR. MacDONALD: What is the difference in the regulations for an associate and a full membership?

MR. HARVEY: What is the difference?

MR. MacDONALD: Yes.

MR. HARVEY: Well as I say, an associate member does not attend meetings or has no vote. He can, however, participate in any benefits that the association provides, such as insurance or tires, which we get at a special price.

MR. MacDONALD: Why would you admit somebody



as an associate member? How can it benefit him when you deny him the right to attend business meetings and so on?

I am not very clear in my mind what the different set of rules are.

THE CHAIRMAN: I am an associate member of a golf club. I am not an active playing member.

MR. HARVEY: For this reason, they are practically owners. They are our employers. They are gravel pit owners, and they contract with us for our services.

MR. REAUME: Who does?

MR. HARVEY: The gravel pit owners.

MR. MacDONALD: I see, in other words, the difference is that they are gravel pit owners rather than individual dump truck owners?

MR. MACAULAY: I thought you said C. Smythe Limited was a transport company?

MR. REAUME: He has a fleet of trucks under this subsidiary.

THE CHAIRMAN: Order please.

MR. MACAULAY: It does not own a gravel pit, it only owns trucks and it is an associate member. Now that is the distinction then this company is Smythe Transport Company.

MR. HARVEY: The Smythe Trucks are known as Material Trucking.

MR. MACAULAY: Right, do they own a gravel pit?

MR. HARVEY: Smythe does.

MR. MACAULAY: No, did this company?



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MR. HARVEY: Not Material Trucking.

MR. MACAULAY: Then why are they associate members?

MR. REAUME: Smythe and Material Trucking Company are all one and the same person.

You keep using the word, I think, Smythe and then there is the trucking company on top of that that he owns. Now is the man that owns the trucking company -- his name is what? Is there a Smythe who owns it?

MR. HARVEY: Excuse me for a minute. There are two groups of trucks from Smythe.

MR. REAUME: How many Smythes are there?

MR. HARVEY: C. Smythe Limited, that involves one group of trucks. Material Trucking Company has a group of three trucks which are not owned by the same people. One is C. Smythe Limited the other is Material Trucking Company. Now both those groups of trucks are members of our association.

MR. MacDONALD: In the case of C. Smythe Limited, he is an associate member because he is a pit owner, that is clear.

MR. HARVEY: That is right.

MR. MacDONALD: In the case of this Material etc. --

MR. HARVEY: Now Mr. Watson has just corrected me. Material Trucking Limited is a regular member.

MR. MacDONALD: Regular member?

MR. HARVEY: I was in error there.

MR. MACAULAY: So the gravel pit owners are



associate members and the people who do not own gravel pits are regular members?

MR. HARVEY: Yes.

MR. MacDONALD: It is like the Teamsters who said that someone who was an independent driver becomes a member. Somebody who is an owner of the truck and has others working for him, he can only become an associate member.

MR. WREN: Mr. Smythe through Material Trucking Limited itself never was associate.

MR. HARVEY: Material Trucking Limited is apparently registered under Stafford Smythe's name.

THE CHAIRMAN: There is nothing wrong.

MR. REAUME: Nothing wrong, it is convenient that is all.

MR. MACAULAY: It is like Mr. Dodds not knowing anything about western Ontario.

MR. EYLIE: Having been connected in association work, I would like to bring a fact before the Committee. It has been suggested that because Mr. Smythe is actually an associate member of this group, that he may be helping it out in a financial<sup>way</sup>. My understanding of most associations and associate members is that the associate member usually comes in at a very very small and nominal fee compared to the regular members.

MR. MacDONALD: No bonus at Christmas time.

MR. WYLIE: None whatever.

MR. MYERS: In your brief you say that the fact



that certain union members have no voting right in their union is too well known to be discussed at length. That is Paragraph 24, Clause D.

MR. DUFF: Mr. Chairman, that is referring to trusteeship unions of course, and I understand that in listening to Mr. Dodds the other day that there is a certain union that was out of their financial difficulties but they elected to remain under trusteeship.

MR. MYERS: What you are referring to there are unions that are under trusteeship?

MR. DUFF: Yes.

MR. PERKINS: Mr. Duff has some further notes to bring to your attention, Mr. Chairman.

THE CHAIRMAN: What was it you wanted to say Mr. Duff?

MR. DUFF: Actually, it was on account of the interest that the Committee has taken in the problem, and there definitely is a **problem**. It is not as bad as it was.

I thought perhaps five minutes of your time on just what the Transport Committee had done, what part it plays and the possible solution to the problem might be of interest to you gentlemen.

THE CHAIRMAN: All right, will you go on please, Mr. Duff.

MR. DUFF: It is the same problem all over Ontario, of course, and I understand up in Mr. Wren's area, but the largest amount of business is in the Toronto area.



The market is about 300 square miles, there are forty to fifty pits servicing the area or somewhere between one thousand and two thousand trucks. I tried through the Motor Vehicles Branch to find out how many and could not.

The mileage varies up to forty miles, from one mile up to forty miles. There is a pit owner and operator of trucks; there is the regular, what we consider regular trucks that are generally at each pit; and then there are pool trucks.

There is also fluctuation in the demand for trucks. That is where the pool comes in. As I mentioned before the delivery price can be based on anywhere from one day to one hundred from when the delivery is to be made. There is actually very little chance to consult on every job the trucks that are available, that are going to operate that.

There may be trucks when we go out to price that we could consult, but maybe by the time the material is to be hauled they may working for someone else, so that the practice is to set up a rate structure in each pit, and in the more efficient pits there is a component system which is relative to the rate structure.

Now so far as the rate structure is concerned, there is a natural limit as to how high that rate structure could be. There is, of course, competition with the other medium of transport, but the most effective one as the rates go up, there is more incentive by pit owned trucks.





MR. REAUME: That is a good reason.

MR. DUFF: That is a very good reason. The more pit owned trucks there are, the more cream is taken off the work of the independent drivers.

The maximum limit is pretty well defined. Then there is competition among the trucks themselves, those that regularly work in one pit, with those that regularly work in another pit. Deals have been known to be made to get a job, a deal with one pit operator and the truck in that pit to lower the bid price to get the job.

MR. WREN: Now if I might interrupt a moment, that is what I was getting at from the very outset of my question.

You say that you make no distinction in the charge to the trucker that takes over your material to haul it to the site. Now you say there is competition between truckers.

MR. REAUME: A combine.

MR. WREN: How could there be competition if there were a fixed rate per mile?

MR. SHERMAN: They do not all adhere to it, sir.

MR. DUFF: There are a number of truckers who are not what you would call business men. They do not know what their costs are.

MR. REAUME: What are you talking about now, the operator of the pits or the truckers.

MR. DUFF: The truckers, and I am sorry to say



there are some operators of the pits who are not good business men.

MR. REAUME: I just want to make an observation. It seems a rather odd thing that the owners of the pits, all these pits involved always hire the one trucking company or independents, you never hire anybody but them.

MR. DUFF: Who else is there sir?

MR. REAUME: Well there must be some people around.

THE CHAIRMAN: Mr. Reaume, if I want to hire A, there is no reason in the world why I should hire B.

MR. MacDONALD: Mr. Reaume's point is well taken. It is very clear that this organization has grown up in the last year or so as the trade unions tried to get into the field. Now we have considered trade union activity that was in contravention of normal practice and ways. Here is another one, let us face it.

MR. REAUME: You do not find it very often, I do not think, where you have owners of pits who belong to the other organization and owners of trucks who have an interest in the pit. "Connie" Smythe who operates under the name of C. Smythe and Material Trucking Company and is an active member and an associate member all at the same time.

THE CHAIRMAN: But he does not cut tires either.

MR. REAUME: I do not know. I have not been following him around at night.



MR. DUFF: I had a possible solution, but I will not go on.

THE CHAIRMAN: If you want to tell us about it please go ahead.

MR. DUFF: There should be some alignment of rates, and it may be an unfortunate term, but collective bargaining in **this**. You may not like that. However, I do not think that the union is the answer for several reasons.

There is a conflicting interest between the functions of the union from these hired drivers and that means that the truck owners can also negotiate contract prices, because they would be then negotiating both for employers and for the independents.

Now a solution can be, and I understand it is working at the present time: in several localities of Metro Toronto, there is I believe the Licencing Board fixed the prices on the hourly basis, and I understand certain States that they have Government controlled rates. As a suggestion, and we are going to go into it more fully and get as much information as possible, but a Government controlled rate that could be reviewed by a Committee of a Government agency easily could solve this problem.

MR. REAUME: That would be all right in the instance of the hourly rate. How would it do on this business of hauling gravel so much a ton mile?

MR. DUFF: They would be on a rate structure.

MR. JACKSON: You would get the unions out of negotiating prices.



MR. MacDONALD: You would like unions or union representatives to be barred from negotiating contracts?

MR. REAUME: He just wants to bar them period.

MR. MacDONALD: Mr. Duff, I would just like to make this comment, it seems to me you object to a union being in a position to negotiate for the driver, and at the same time the independent truck owner, but you want that right for yourself to negotiate on behalf of pit owners who may have people working for them or the independent truck owners. In other words, you want the right to do this joint negotiating rather than the unions.

MR. JACKSON: But in different fields. One is negotiating prices.

MR. MacDONALD: This collective bargaining involves people who are working.

THE CHAIRMAN: Gentlemen is there any further discussion on this matter?

MR. NETZLER: Before you adjourned this morning, you raised the question of an application for certification involving the group of independent drivers. Now I asked the Registrar of the Labour Relations Board to give me some information on this, and here it is;

There was an application for certification filed on November 23rd, 1954 by Messrs. Kimber and Dubin acting on behalf of the Ontario Dump Truck Operators Association in respect of Markham Sand and Gravel Company.



1870-1871

1871-1872

1872-1873

1873-1874

1874-1875

1875-1876

1876-1877

1877-1878

1878-1879

1879-1880

1880-1881

1881-1882

1882-1883

1883-1884

1884-1885

1885-1886

1886-1887

1887-1888

A reply was filed to this application on December 14th 1954 and a hearing was held on Monday, December 16th.

On July 14th 1955 an Examiner was appointed, Mr. Bunston in this instance, and he endeavoured to convene a meeting of the parties. He was advised by the solicitor that Markham Sand and Gravel Limited had been sold out to Davis Corporation. The matter stood there for a considerable period of time, and early in December 1955 Mr. Kimber was notified by registered mail, late in December, I should say, by the Registrar that there was to be a meeting of the parties on or before January 4th 1956. A meeting was held and the application was dismissed on January 9th, 1956 for want of prosecution.

MR. REAUME: Now you see is that not a strange thing, on Page 2 of the brief that we heard this morning they say that the application was made by the Union.

MR. WREN: It was made by their own association.

MR. METZLER: It is the Ontario Dump Truck Operators Association.

MR. MacDONALD: It is an antecedent of the existing body I take it.

MR. REAUME: The fact is --

THE CHAIRMAN: What were you going to say?

MR. METZLER: I do not think it was the same organization. I do not know what the composition of the organization is.



THE CHAIRMAN: In any event, the application was not made by the Teamsters Union.

MR. REAUME: It was not made by the Teamster Union.

MR. METZLER: Mr. Thomson might be able to tell you. I do not think it was, but the point is that the question in this application, it was referred to as to the certification of a group of independents owners and operators. It was decided by the Board. The application went by the Board for lack of prosecution.

MR. MacDONALD: May I ask this question? There is reference there to this application being made on behalf of the Ontario Dump Truck Owners Association. Do I take it that this was an earlier, the Ontario Dump Truck Operators Association is an earlier body, an antecedent of the existing one?

MR. YARENKO: Mr. Metzler, this part here in the reference made on Page 2 in the brief that we heard this morning from the Individual Dump Truck Owners Association where they say that we are only aware of one instance when the Teamsters Union attempted to obtain certification of a group of independent operators who were engaged in supplying their services for the Markham Sand and Gravel Company, we are at least sure now that that statement is not correct.

MR. METZLER: I do not know what association this Ontario Dump Truck Operators Association may have had with the Teamsters Union, but Mr. Thomson may.



THE CHAIRMAN: Do they have any connection?

MR. WATSON: The Ontario Dump Truck Owners come under a branch of the Automotive Transport Association.

THE CHAIRMAN: This is the Dump Truck Operators.

MR. WATSON: But this branch Mr. Chairman of the Automotive Transport Association presented a brief here the same day that we did.

THE CHAIRMAN: And is in no way connected?

MR. WATSON: In no way connected.

MR. MacDONALD: Apparently this was a group of people, of Dump Truck Owners who tried to get collective bargaining at one stage, but now it is done for them by the existing organization.

THE CHAIRMAN: It does not follow at all.

MR. THOMSON: It is the same group.

MR. SHERMAN: It was not the same group.

THE CHAIRMAN: All right Mr. Harvey.

MR. HARVEY: Mr. Chairman, I have just been talking to Mr. Ferguson on the phone, and he has assured me that that statement in that brief is in error now.

THE CHAIRMAN: It would be better, although it may cost you more, if you had lawyers present your brief for you. Is that all we have to do now, gentlemen?

Mr. Duff, and your associates, may I on behalf of this Committee as its Chairman express to you our very sincere appreciation for appearing here today,



and I assure you that the matters which you have brought to our attention will receive very careful consideration.

MR. DUFF: We certainly appreciate that sir.

--Meeting adjourned at 3.30 until Friday morning,  
January 31st, 1958 at 10 a.m.





LEGISLATIVE ASSEMBLY OF ONTARIO  
SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,  
Queen's Park, Toronto, Ontario.

Friday,  
January 31, 1958.

JAMES A. MALONEY Chairman

HAROLD PERKINS Secretary

GEORGE T. WALSH, Q.C. Committee Counsel

MEMBERS:

G. E. Jackson  
Donald C. MacDonald  
Ellis P. Morningstar  
Raymond M. Myers  
Arthur J. Reaume  
H. Leslie Rowntree  
J. W. Spooner  
Albert Wren  
John Yaremko  
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler      Deputy Minister of Labour

THE BOARD OF TRADE OF THE CITY OF TORONTO

Lieut.-Col. John F. Ellis, President, Board of Trade  
Mr. J. W. Wakelin, General Manager, Board of Trade  
Mr. R. W. Hicks, Q.C., Chairman, Labour Relations  
Committee, Board of Trade  
Mr. A. C. Crysler, Q.C., Legal Secretary,  
Board of Trade.



THE CHAIRMAN: Gentlemen, it is now 10 o'clock, and I see a quorum. The brief this morning is from the Board of Trade of the City of Toronto, represented by J. F. Ellis, President, J. W. Wakelin, General Manager, R. W. Hicks, Q.C., Chairman of the Labour Relations Committee of the Board of Trade, and A. C. Crysler, Q.C., Legal Secretary of the Board of Trade.

Now, I think you gentlemen know the manner in which we proceed. The brief is to be read to us in its entirety, and after it has been read the delegation who are here to support it, submit themselves to questioning by the Committee.

Who will present the brief? You may sit down to do so.

--- Lieut. Col. Ellis introduces Mr. R. W. Hicks, Q.C.

MR. HICKS: Thank you, Col. Ellis. Mr. Chairman, gentlemen, before reading the brief, sir, I would like to comment that we have been following the proceedings with great interest indeed. I might say we admire your patience and tenacity in pursuing your monumental task the way you have.

--- Off-record remarks.

--- Mr. Hicks reads brief in its entirety and six-page addendum.

THE CHAIRMAN: Thank you very much. Now then, gentlemen, would you like to have five minutes before we start questioning?



MR. HICKS: It might be just as well, sir.

--- Five-minute recess.

THE CHAIRMAN: Now then, gentlemen, we will proceed to deal with these submissions in the usual manner. I would ask the members of the Committee if there are any questions arising out of page 1? Page 2, "Basic Principles". "Trade Union rights exceed responsibilities".

MR. MacDONALD: In stating the over-all objective or the underlying objective of the legislation, for example I think C. M. A. have gone on record saying collective bargaining is a very desirable thing.

MR. HICKS: I don't question that, Mr. MacDonald.

MR. MacDONALD: I can see how you can argue it may be the underlying principle, but you certainly don't want the principle endorsed by legislation to the point of encouraging them unduly.

MR. HICKS: we are suggesting restoration of a greater equilibrium of all the rights of all those affected: trade unions and employers alike; to be brought back into greater balance than seems to exist under the present legislation. We are not questioning the right of trade unions, the right of employees to bargain collectively. That was far from our intention.

THE CHAIRMAN: In other words you recommend the principle, trade unions are here and they are here to stay?

MR. MacDONALD: You see later in this supplementary brief the statistics that you give, one conclusion that



emerges from it is that only from a third to a half of the potential unionized group are now organized. You make it even more difficult than it is at the present time to organize the unorganized by some of the proposals you make here to leave these people without the benefits of collective bargaining.

MR. HICKS: Our intention, Mr. MacDonald, is that that be left with the employees themselves to decide. They be left unfettered from interference or undue influence of either of the interested parties. They make that decision.

THE CHAIRMAN: In other words the Act should not be --

MR. HICKS: The Act should not be biased.

THE CHAIRMAN: Shouldn't be for the protection of trade unions but should be for the employees.

MR. HICKS: It is their interests.

MR. YAREMKO: You would go along with the proposition, Mr. Hicks, that collective bargaining being said as a good thing, for example, we, by legislation, should make it so; that every employee must belong to a union because collective bargaining is a good thing?

MR. HICKS: No, sir. I think religion is a good thing, but there is nothing compulsory about it.

MR. MacDONALD: It is an exchange of views and maybe we are not getting anywhere, but there are certain circumstances in the area of unorganized labour in Ontario today which make it extremely difficult to become organized





even if they want to, so they haven't the unfettered right to join the union of their choice.

MR. HICKS: I have never personally encountered such an experience.

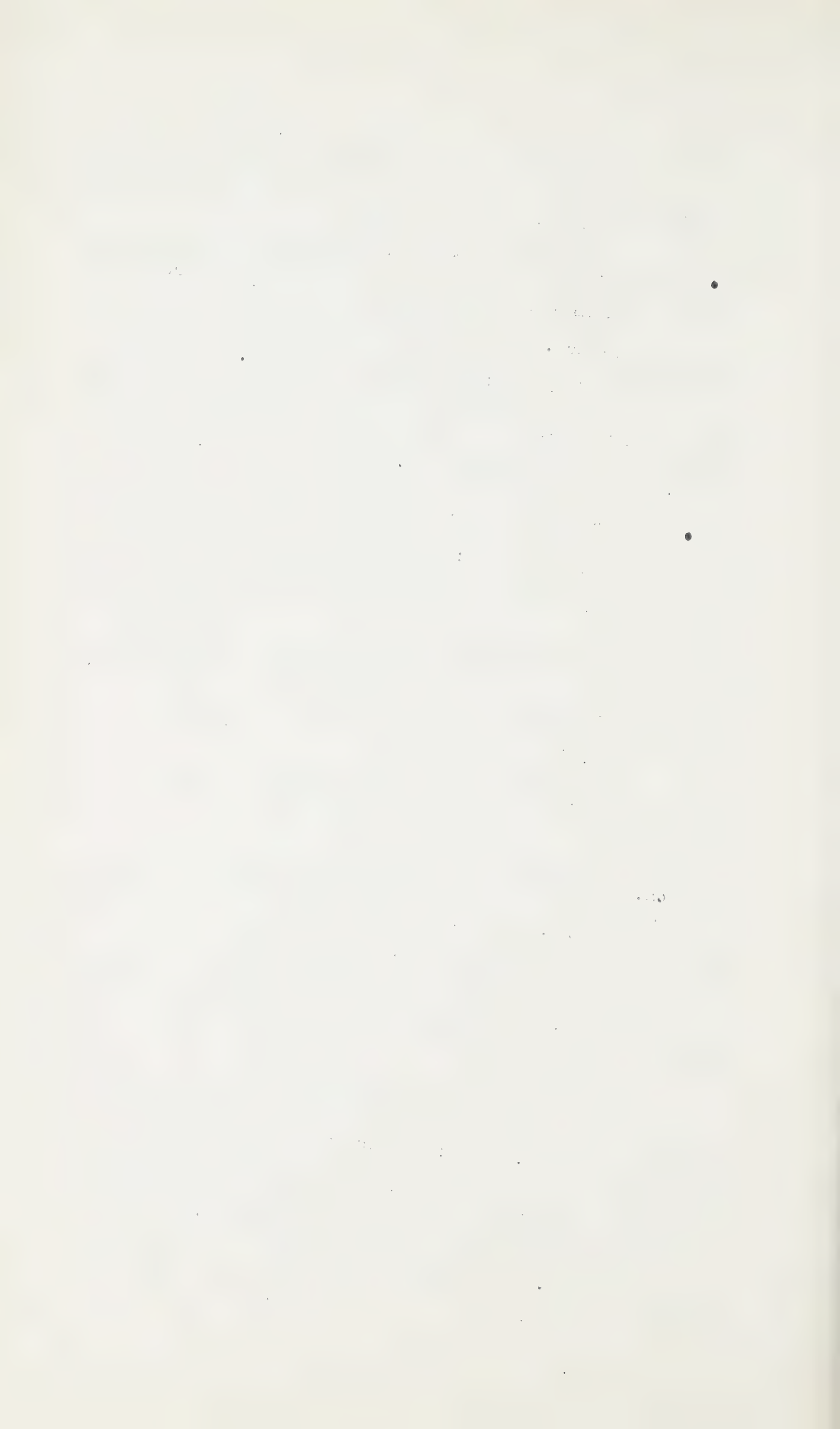
THE CHAIRMAN: They have the right. If any two people want to join a union or form a collective bargaining agency, they are free to do so. Page 3? Page 4, "Monopolistic Tendencies".

MR. MacDONALD: Because a union becomes representative of all the workers in that particular field, which I think we have come to the conclusion might be desirable rather than having them split up among many, many unions, if they do become representative, then it becomes a monopoly?

THE CHAIRMAN: It says the leaders, not the union.

MR. REAUME: The leaders are after all elected by the rank and file so I don't know of any other way you can handle them. What is the real meaning of that? Do you mean that the authority and power is vested in the hands of the leaders?

MR. HICKS: We are submitting to you firstly that where in industry all goods and services flowing from an industry are controlled by one industry, that represents a monopoly. Secondly, in the administration of trade union affairs, the ultimate authority lies with their leaders.



MR. MacDONALD: No, that is not true.

MR. HICKS: In the practical course of events our position is the element of authority does rest with the leaders.

THE CHAIRMAN: I think it is summed up in the fourth last line: "Skilled union professionals normally carry out all the proceedings on their behalf."

MR. HICKS: You may have for example a pattern of bargaining. You have Mr. Reuther's latest statement on policy. That was not endorsed by the International Convention. That originated with Mr. Reuther, and he advanced it to the convention as his proposition.

MR. REAUME: Isn't it a fact that prior to the time that the policy as advanced by him becomes actual or effective, it has to be approved by the rank and file?

MR. MacDONALD: In fact they just had a convention of 3600, all of the locals, in Detroit, in which they threshed the thing out thoroughly.

MR. HICKS: I would say technically, yes.

THE CHAIRMAN: Page 5, "Right of Appeal", "Increasing Union Power", Page 7, Page 8, "Certification".

MR. JACKSON: Do you think that the publishing of financial statements of unions would have any beneficial effect?

MR. HICKS: It is our viewpoint that the membership are entitled to those statements. They should be cognizant of the affairs of their union, and of course that



is one of the most pertinent aspects of their affairs.

MR. JACKSON: It is up to the members of the organization if they want to publish the statement or not.

MR. HICKS: I suggest that the situation is such as obtains in relation to trade unions where there is the compulsory condition imposed by legislation, compulsory publication of essential or necessary statements that applies to public corporations. They must by law publish their statements. Surely the same thing applies to an organization such as a trade union.

MR. MACAULAY: As a matter of fact most of them do.

MR. HICKS: I don't know.

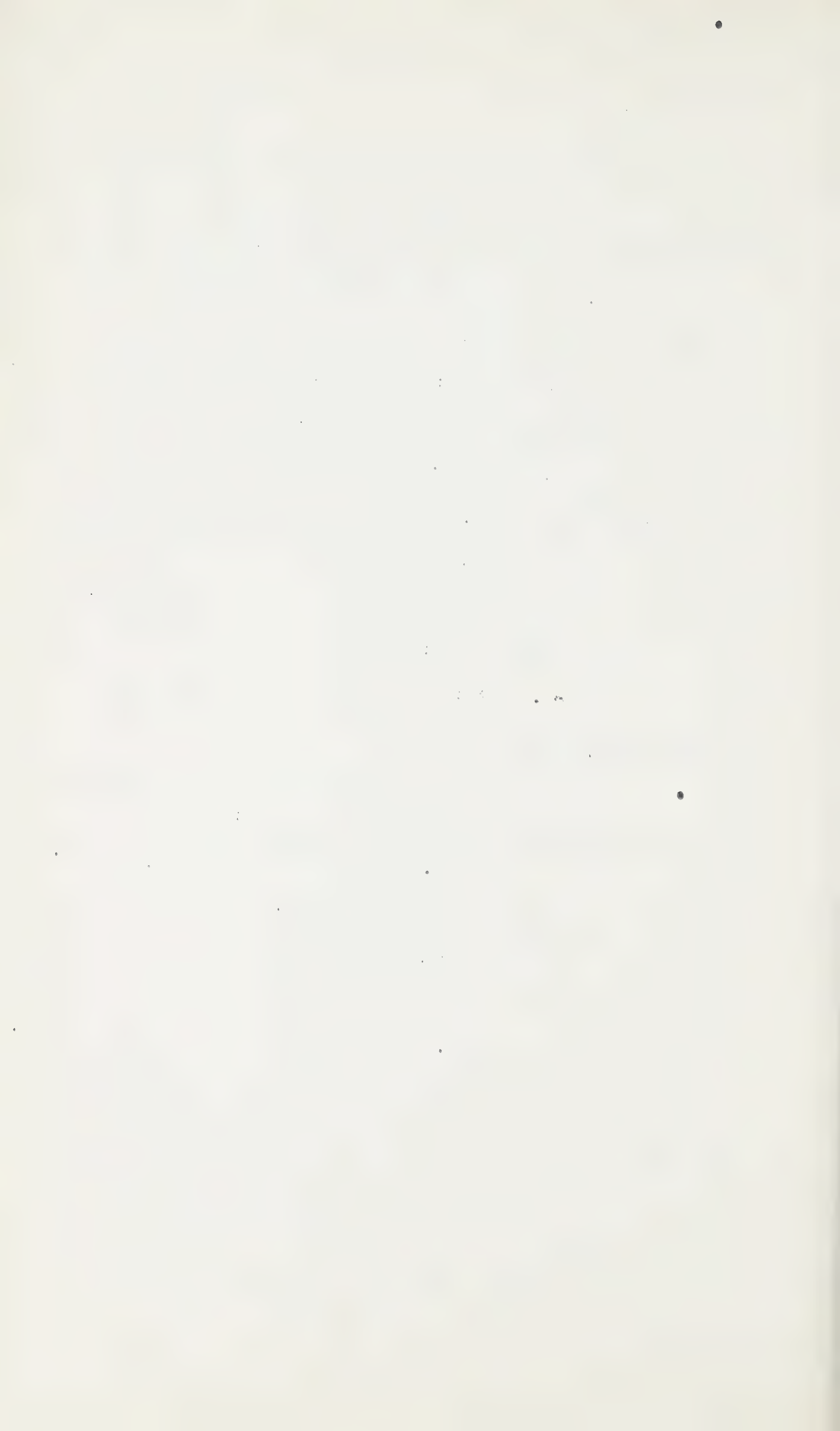
MR. MACAULAY: They would be required to file financial statements.

MR. HICKS: They are now published, Mr. Macaulay. They are now published in respect to public companies.

MR. MACAULAY: What about private companies?

MR. HICKS: They are operating in a different capacity. They are not involving the public in their operations.

MR. MACAULAY: Oh, certainly; they certainly may involve the public. The public may buy their wares. But that is not the important thing. If the union is going to be asked to publish, you are going to have to require filing, and the only place they could file would be with the Department of Labour. And if it is required of the union, shouldn't it be required of management?



MR. HICKS: I suggest not in respect to private enterprise who are not responsible to the public at large. They are only responsible to shareholders in respect to financial interest.

MR. MacDONALD: But the whole theme of your brief is that unions have to be responsible to --

MR. HICKS: To their membership.

MR. MacDONALD: Your plea is that they are public concerns?

MR. HICKS: No. In this regard I must clear up the point, if I may, Mr. MacDonald. In this regard they are responsible directly only to their membership. I am not suggesting publication in the press. We are suggesting full disclosure to their membership.

THE CHAIRMAN: Page 8, "Employee Freedoms". Page 9, "Certification Vote, Section 7(2)". Some of these matters you won't be questioned upon.

MR. HICKS: I have been reading the transcript of the proceedings.

THE CHAIRMAN: Page 10, "Form of Ballot". Page 11, "Six Months' Disqualification".

MR. MacDONALD: Just as a matter of curiosity, how can this conceivably be done? I agree with it because it seems to me it is desirable, but I agree it is inconsistent in one instance as compared with the other.

MR. HICKS: My understanding, Mr. MacDonald, it was done to stabilize conditions in the industry concerned,





and to avoid repetitious applications for certification and to afford the parties, employees and employers, a reasonable length of time.

THE CHAIRMAN: "Employer Freedom of Speech". We have had this before.

MR. HICKS: Yes, sir.

THE CHAIRMAN: Page 12, "Interpretation of 'Employee'."

MR. MacDONALD: If you were longing as strongly as you say on the next page to avoid industrial instability, how would you then achieve that overriding objective if you revert to the status quo prior to the establishment of the Labour Relations Board and have appeals on things beyond the matter of law and jurisdiction? In the contention advanced it seems to me you have an awful lot of validity; you have a widespread appeal effect even though it is in the proposal you make that you are going to have the labour-management relationship so bedevilled we will end up with industrial instability. You yourself say this is something we should avoid.

MR. HICKS: I don't think that has been the experience on the other side where there is the right of full appeal. I don't know why we should anticipate any other or different experience here.

THE CHAIRMAN: It was suggested to us yesterday by Mr. Robinette that the right of appeal should be given, but that first leave to appeal should be sought before a



tribunal of three judges such as is done now in the Supreme Court of Canada and in our Court of Appeal, and in that way any frivolous appeals would be screened out. Would you have any objection to that?

MR. HICKS: No, sir. That makes good sense.

THE CHAIRMAN: Do you think that would be better than the one you advocate?

MR. HICKS: I am inclined to think it would.

MR. MACAULAY: What would you think about the Labour Relations Board being the body which would decide that they could have leave to appeal?

MR. HICKS: Would it not be unique to have a board sit in judgment in an appeal on its own judgment?

MR. MACAULAY: The Court of Appeal does that.

MR. HICKS: Not before the same judge. Not before the same justice.

MR. MACAULAY: That may not be.

MR. HICKS: Again you have different considerations. You have the board acting irrespective of sitting as a panel; they act as a board. They have a common policy which they must administer. I think it would vitiate the whole purpose of the appeal.

MR. MACAULAY: Are you saying the right to appeal, right to seek appeal should not be heard by the same people who heard the case?

MR. HICKS: I don't think so.

MR. MACAULAY: What do you imply?



MR. HICKS: I am implying they can't act without bias.

THE CHAIRMAN: They have already made up their mind.

MR. HICKS: Yes. If the decision is satisfactory in the outset, surely it is the one they must decide.

MR. MacDONALD: There is one point here in your proposals, a suggestion it should be appealed to one level of the court.

MR. HICKS: Yes, sir, a single --

MR. MacDONALD: I am not a lawyer, and therefore I am just asking this as a general question in all this assembly of legalites, but is it legally possible to fix a limit beyond which you can go?

MR. HICKS: Yes, sir, you can so prescribe the limit.

MR. MacDONALD: I think one person did specify a limit, but he said in practice it can't be done. Once you get into the higher courts there is no stopping it.

THE CHAIRMAN: On motions. You can stop it at one level, but under this procedure Mr. Robinette suggested yesterday, ultimately the thing could go as far as the Supreme Court of Canada.

MR. MACAULAY: Appeals on Municipal Board decisions are filed in the Court of Appeal.

MR. HICKS: Yes.

MR. MACAULAY: And in fact you can only get there, in some cases, relief.



MR. HICKS: There shouldn't be any problem.

THE CHAIRMAN: "Craft units", page 13. we have also had this. Page 14, "Appropriate Unit Votes". Page 15, "Appropriateness of Unit". Page 16, "Negotiation and Conciliation". "Bargaining by Composite Unions".

MR. MacDONALD: What do you mean by "composite unions"? Is it not a fact now that the practice is for the bargaining to be done by a committee from the unit involved in a particular matter and conceivably a union officer?

MR. HICKS: That is normal practice, and we are not questioning that practice.

MR. MacDONALD: What is the basis of your objection here? You end up by saying that people who are not sort of involved are sharing in the collective agreement.

MR. HICKS: They may share in the negotiation through their own representatives, but the general policy at the outset is established by the composite union membership, the full membership.

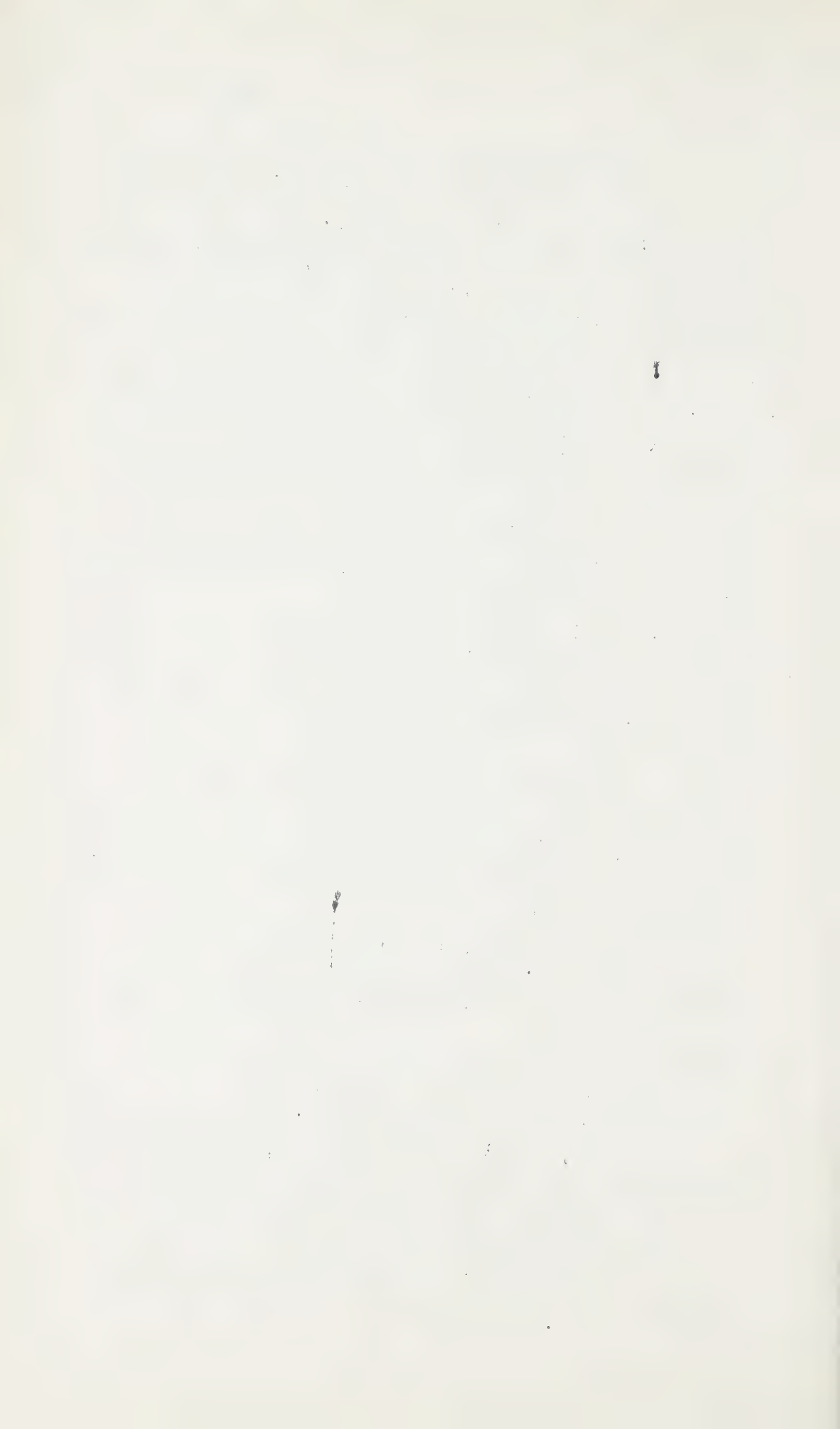
MR. MacDONALD: Yes, and the general policy is sometimes laid down by management that takes in all those subsidiaries.

MR. HICKS: I don't follow.

MR. MacDONALD: For example, the people in Noranda will find a common pattern they have to deal with.

MR. HICKS: Yes, but the subsidiary enters into the contract. Our position is we found recently three employees in a bargaining unit, the contract governed all





those employees, 250 people, and that we fail to understand. The contract concerns them exclusively and relations with their employer, and our position is they alone should vote on the adoption of that agreement. Mr. Wakelin points out the other 247 people were their competitors.

MR. MacDONALD: I have a feeling I am not familiar enough with the actual practice of the composite unions from a first-hand point of view, but I think this is the first time this proposition has been raised.

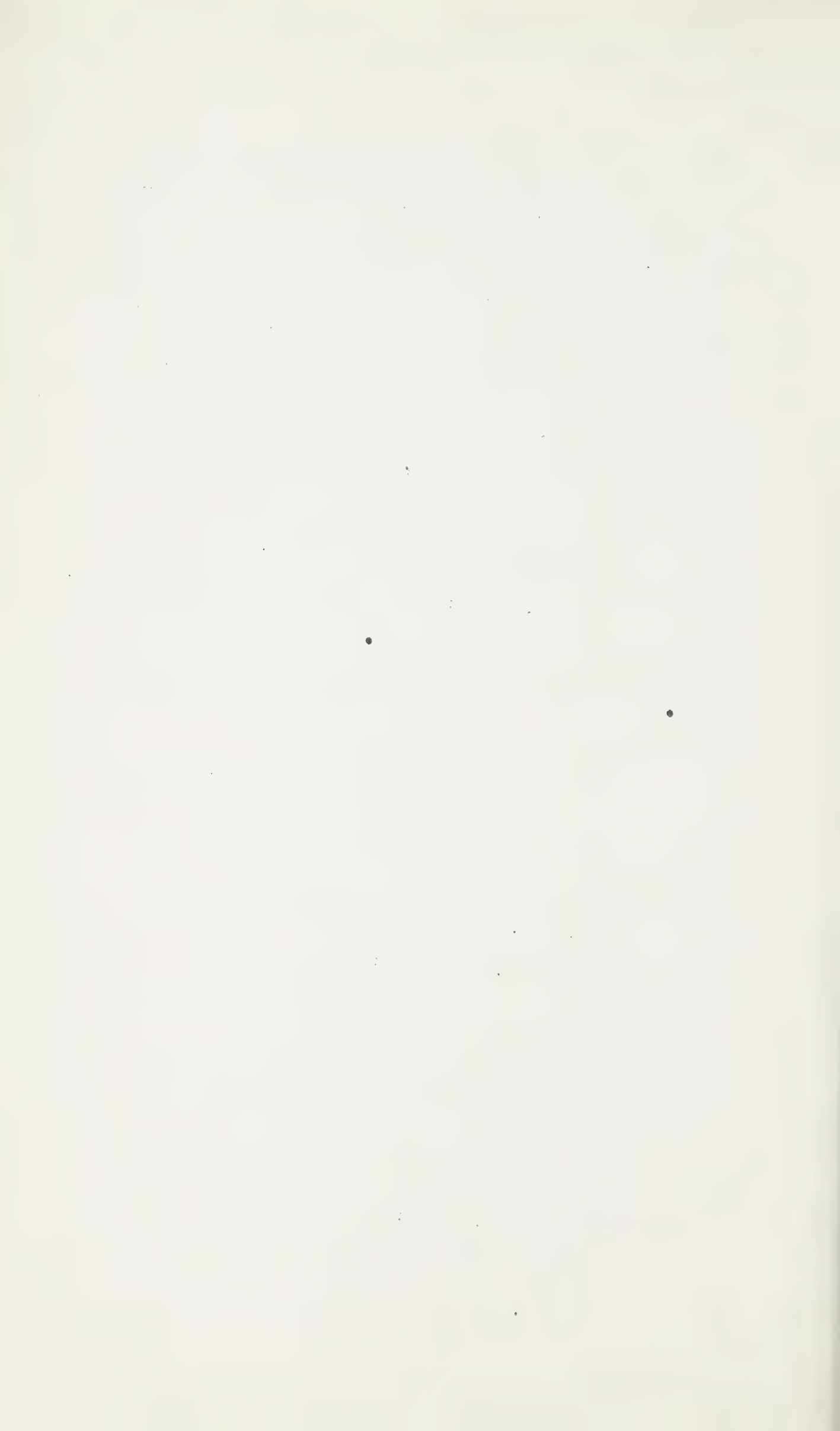
MR. HICKS: I can refer you to strike votes. That is often taken by composite unions where the membership of the non-interested group of employees -- strike vote was authorized despite the fact that those directly interested represented a minority of the membership.

THE CHAIRMAN: Page 17, "Conciliation Proceedings".

MR. HICKS: This has been thoroughly before you as well, sir.

MR. MacDONALD: The proposition put to the Committee on a number of occasions is that they are sitting on so many boards at the same time that it is impossible for them to fulfill their function. Would you be in favour of the proposition of limiting the number of boards any man can sit on at one time?

MR. HICKS: I don't think it is practicable, and I doubt very much if there is any real substance in that criticism. I don't think that is the determining reason or one of the principal reasons for delays. There are bags of



reasons, if you will, why there are delays, but for the most part they are attributable to the parties themselves being unavailable.

MR. MacDONALD: Yes, but the parties are unavailable because they are tied up with another conciliation board.

MR. HICKS: Or another reason the union is seeking a pattern of settlement so it can withhold pending the settlement of the first.

MR. MacDONALD: To the extent that delay is derived from the nominees to the Board being tied up and they can't act on this particular board, do you not think this is a problem relating to them?

MR. HICKS: I don't know what criterion you have established, Mr. MacDonald.

THE CHAIRMAN: For example it was stated to us, and I understood that Mr. Robin wren over a period of one year was on some 44 conciliation boards.

MR. MacDONALD: Mr. Hicks has had a lot of experience. How many boards have you sat on?

MR. HICKS: Maybe 15.

MR. MacDONALD: How many at the same time?

MR. HICKS: Two or three, averaging in total five or six days a month at the most.

THE CHAIRMAN: Don't you think 44 in a year would be too many?

MR. HICKS: It does sound extreme, but doesn't the responsibility lie with the union appointing him?



THE CHAIRMAN: That is the point. why should they appoint him?

MR. MacDONALD: The suggestion has been made that while it may rest with the union, it may rest with the man who accepts it, because that is the only level where they know how many boards they are sitting on at that time.

THE CHAIRMAN: If the union nominates a man and the board steps in and says "no", then immediately that is Government interference; then you are right up the alley.

Page 18, "Union Disregard of Process". "Publicity of Board Reports".

MR. YAREMKO: I am sorry, Mr. Chairman -- this "tendency on the part of one or two of the larger unions to attempt to by-pass conciliation proceedings by refusing to participate in them", does that mean they refuse to meet with the conciliation officer?

MR. HICKS: Yes. You will recall this brief was filed with you in September, and it was in the course of preparation for several months prior to that time. There had been refusal on the part of -- principally the U.A.W.

Now, whether that union has adopted a different point of view or policy, I don't know. Latterly there has not been the same contempt of the process that there was at that time. There was a tendency towards repudiation of the process by refusing to participate before the board. You may recall it. It happened in the General Motors case.

MR. YAREMKO: What is your reaction for having a



time limit of say 90 days for the whole conciliation process that one of the phases of the officer or board might be used?

MR. HICKS: I suggest it is difficult to prescribe time limits. Consideration might be given to granting discretion to the chief conciliation officer.

MR. MACAULAY: why don't you believe in time limits?

MR. HICKS: I don't believe in time limits myself, personally. It is impossible to prescribe exact time limits. Every negotiation represents a different problem.

MR. MACAULAY: Why shouldn't it be said that if by the time an agreement has come to its normal head, or say in 60 days thereafter, if a new agreement has not been reached, a strike may take place, and if in the meantime you want to use the process, and the time limit is only partially exhausted, you are free to go --

MR. HICKS: Then I think you would frustrate the proper processing of the negotiations and the conciliations.

MR. MACAULAY: What do you mean by that?

MR. HICKS: You are extending to either one or both of the parties a club which they can threaten against the other.

MR. MACAULAY: It comes to the end of the failure to get together in any event.

MR. HICKS: Well, assume the period established is reasonable, and I don't know how the legislation can





establish a reasonable period to govern all situations.

MR. MACAULAY: what is it that you are saying? Why should they go on negotiating for a fixed period of time? what is the purpose of that time fluxion?

MR. HICKS: There are many factors. Firstly, you have the matter of conditioning the parties, and this is one aspect that I believe has been overlooked: we are still in the incipient stages of collective bargaining in Ontario and the parties are immature for the most part when they approach the board. It is still in its infancy. It can't be compared with other jurisdictions such as the U.K.

One of the values that I have seen time and time again that flows from the conciliation process is the educational influence upon the parties at the table and upon the membership at large. They have a better comprehension of the issues. They are clarified for them by outsiders such as the conciliation officer and conciliation board, and that fluxion of time represents a measure of education and a measure of conditioning -- at least an airing of the issues.

MR. MACAULAY: Isn't that so of the United States under their federal act?

MR. HICKS: I believe so.

MR. MACAULAY: Now, what are the statistics as to the comparative number of strikes per issue?

MR. HICKS: I am sorry, I wouldn't know.

MR. MACAULAY: So are you borne out then by



saying that this period is a good conditioner, or as other persons have called it, a cooling off period or a period during which each side sort of dulls its weapons and are prepared to take some less big bite of the dog?

Basically, are you supported by the facts as they exist in the United States where they don't have this conciliation period after the term of the agreement?

MR. HICKS: Again not knowing statistics, I would remind you they have had compulsory collective bargaining over there since 1932 or 1933. At least a decade longer.

MR. MacDONALD: What is your reaction to this argument that has been put forward, if conciliation would aid collective bargaining, but in many instances it is postponing. In other words, the conciliation officer and everybody plays it cosy and says he is not going to reveal his hand, and they go through the motions, and the conciliation officer will really come to grips at the board stage, or even not at the board stage, but when they are faced with a strike. In other words, delay because of conciliation making it possible to avoid collective bargaining or postponing it.

MR. HICKS: I would say that that applies to a small minority, a very small percentage of the cases, and it depends largely on whether there was earnest on the part of both parties to come to an agreement. I do not think the imposition of time limits will affect that earnest. If they are willing to come to an agreement,



normally they come to an agreement within a reasonable period. I can't see where the imposition of rigid time limits is going to advance earnest or increase earnest.

MR. MacDONALD: There is the human element. Human nature. All of us work according to a deadline. If we have something that must be done as of the 30th day of the month, we will procrastinate every day until 24 hours before it, and when the heat is on we will come to grips with it.

THE CHAIRMAN: Surely you don't live on that basis.

MR. MacDONALD: I live that way. I live that way from day to day, and so do you, Mr. Chairman.

THE CHAIRMAN: Page 19. Page 20, "Compulsory Check-off Unjustified".

MR. MacDONALD: I think Justice McRuer in one decision that is back in our files now has stated that once a union is accepted, the further acceptance of collective bargaining is just an act of good faith. If he wants to accept it, it is entitled to the degree of security management is. You attempt to deny this.

MR. HICKS: There is no guarantee of management security.

MR. Macaulay: Does the union give management any security?

MR. HICKS: No guarantee at all. Far from it.

THE CHAIRMAN: Compulsory check-off, as I understand



it, is designed to assist the union as such, and not the employees who belong to the union.

MR. HICKS: That is right.

MR. MacDONALD: This is a fictitious distinction. People join the organization to further their collective interests to see the union is separate from the management.

MR. YAREMKO: How did the term 'union security' come to become the nomenclature for check-off?

MR. HICKS: I don't know.

MR. MACAULAY: Isn't that what it is?

MR. HICKS: It is to secure the union financially. That is its purpose, to secure the financial position of the union. That is the reason.

THE CHAIRMAN: In the Knights of Columbus or the Shriners you can't make collection of dues compulsory.

MR. MacDONALD: The Knights of Columbus don't have the right to sit down and bargain.

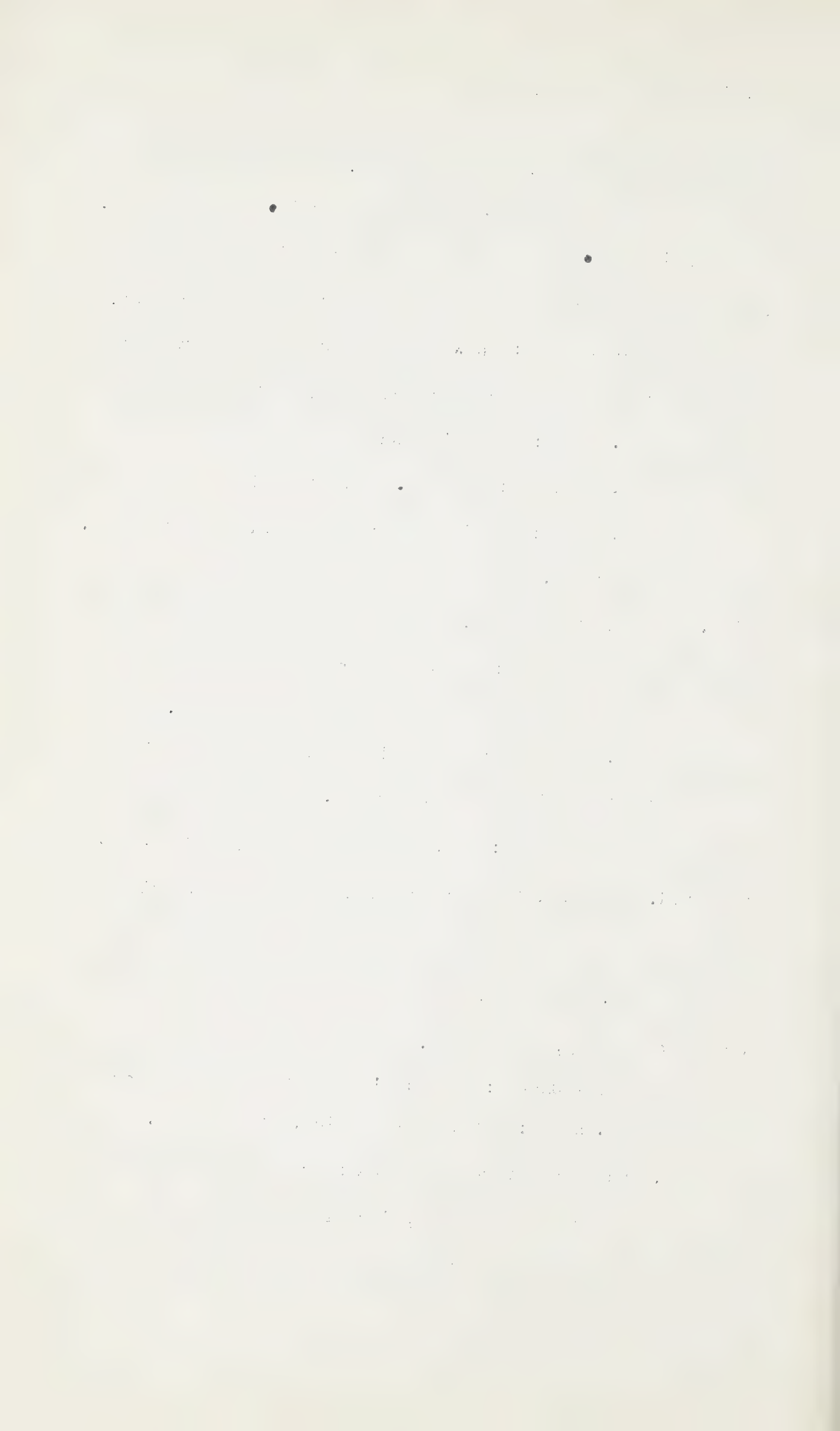
THE CHAIRMAN: Oh, but they are very strong, Mr. MacDonald. Page 21, "Compulsory Union Membership Infringes on Personal Liberties."

MR. MacDONALD: This is an old one that has been gone through many, many times.

MR. MACAULAY: You don't need to apologize for it.

MR. HICKS: It is interesting, however, Mr. Chairman, that the Government enacts fair employment practices legislation, and why the same principle does not apply in this area we fail to understand.





MR. MACAULAY: They enact a fair what?

MR. HICKS: Fair employment practices, and why it does not extend to this area we fail to understand. Automatically there should not be any distinction.

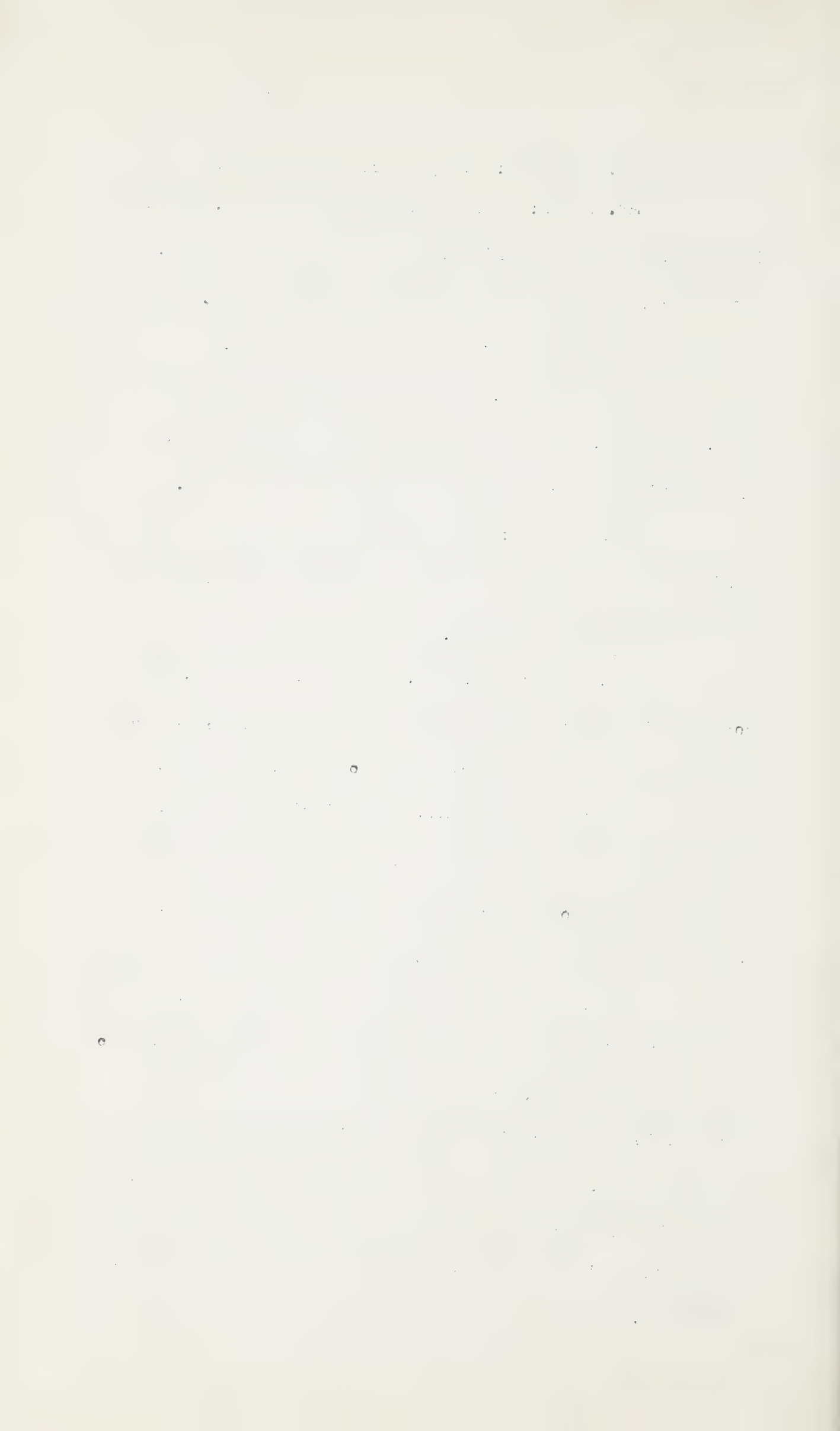
MR. MACAULAY: Right to work clause.

THE CHAIRMAN: Page 22, "Arbitration(Section 32)". Page 23, "Revision of Agreement (Section 37)". Continuation of Agreements following Certification".

MR. YAREMKO: The argument as stated in this paragraph as against the argument stated by the union in regard to successor company.

MR. HICKS: No, sir. You see, if I may, the contract is entered in on behalf of the employee, and the employees remain the principals throughout, and in the case of the successor company, the principal changes, and a new owner comes into the picture, but the egis of the employees for whom the contract is negotiated remains constant throughout the piece.

Now, should they be able to arbitrarily, because they don't like the deal that was made by trade union A for a term of two years, at the end of 10 months authorize trade union B to act in their behalf thereby circumventing the agreement, and enter into new negotiations? Again, I think the distinction is based on the fact that the employees remain the principal who is responsible ultimately for the agreement.



MR. YAREMKO: Let's take the extreme cases where the individual or partnership carrying on business under a firm name disincorporate themselves and everything remains on the basis exactly the same from the employer's standpoint of view except that they have now created a new legal entity. Everything is exactly the same except by the usual processes of the law they have created a new legal entity.

MR. HICKS: And you are suggesting?

MR. MacDONALD: The union should have successor right. There are many cases brought before this Committee that appeared very clearly to be a case of legal change solely for the purpose of avoiding their obligations, contractual obligations to the union.

MR. HICKS: I would question that myself. I have so many in the reverse form. I have just seen three this year where despite a change of ownership, transfer of assets, the bargaining agent has been recognized and the contract continued. Personally, I think some unions have been making a mountain over a molehill.

Now, if you embark on the type of situation that you mention, Mr. Yaremko, where do you draw the line?

MR. MACAULAY: Maybe by letting the Labour Relations Board decide, and decide whether there was a bona fide change or not. Certainly if what you say is correct, it seems to me if we can establish, or have established to us that one company has simply wound up one and incorporated another and it is still exactly the same people or a man



operating a sole partnership and incorporating it, it seems to me that there is some room for concession on that.

MR. HICKS: If it could be established that it was a deliberate attempt to frustrate application of the Act I would agree.

MR. MACAULAY: I wouldn't go that far. If the fact is they are still the same people, doing the same things, carrying on a different legal entity, surely that is --

MR. MacDONALD: In other words it becomes a breach of the contractual agreement.

MR. HICKS: Assuming the operation remains the same.

MR. MACAULAY: I don't want to argue with you. In this kind of legislation there is a lot of give and take.

MR. HICKS: There has been too much "give" though.

MR. MACAULAY: Well, that is your opinion.

MR. MacDONALD: You say here this raises a great many practical difficulties. The fact of the matter is in a number of provinces, and I have forgotten how many, this is now the law, and there is no evidence that there is a great range of practical difficulties. If there is going to be a change in the legal entities, they realize it is one of the assets or liabilities of the company, and if somebody wants to buy it, fine, that is the liability or asset they have to live with.



MR. HICKS: I still say it is a bad principle when a third party can bind another party unknowingly.

THE CHAIRMAN: When the new company goes in to negotiate for the purchase of assets, surely they are made aware of the fact that there is a collective bargaining agreement, and what the contract is, before they consummate the sale or purchase.

MR. HICKS: Why should they be bound?

THE CHAIRMAN: Assuming they take it with the full knowledge of what is in existence and likely it is to exist.

MR. MacDONALD: Supposing a coal company had a contract with a coal man for a six-months period to deliver so many tons of coal; a new company buying it would have to assume that obligation. Why shouldn't it assume the obligation to deal with the union too? The purchaser company has other obligations; why shouldn't he take over this?

MR. MACAULAY: There is the employees' point of view as well. Look at it from the employees' point of view. They have worked hard to get an agreement. They have negotiated, and they have gone through conciliation, and two months later there is a sale. I think you have got to figure out more than one side. I think, as I said, when you have worked out for some months, perhaps with the threat of a very serious strike, and you have come to an agreement with the employees -- if there are no successor





rights -- maybe after three or four weeks the whole thing would be settled. They may have invested a great sacrifice to obtain that agreement. With respect, I think you should see our side, as we try to look at it, that there are interests on both sides.

MR. MYERS: Why wouldn't it be fair to say where the purchaser company buys a business of a going concern, it goes as part of the going concern? If he sells the assets separately, then he can't.

MR. HICKS: We accept that principle.

THE CHAIRMAN: Page 24, "Security Guards (Section 8)".

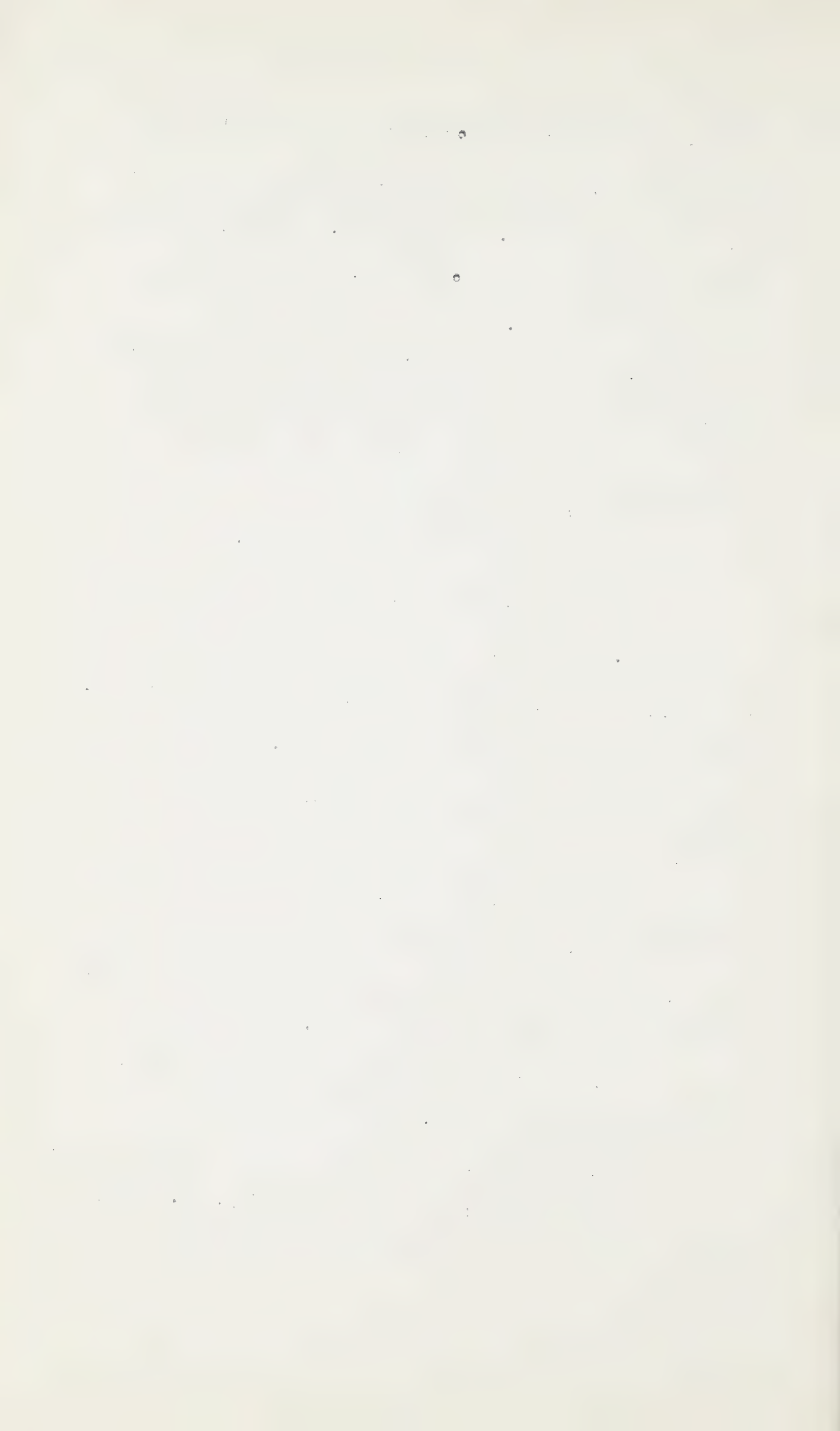
MR. MacDONALD: There is a point here to end this confusion. It should be reconciled with some clarification. At one moment he is in the bargaining unit, and the next moment he is not, and his actual function has not changed at all.

THE CHAIRMAN: Page 26. Page 27, "Administration and Enforcement. Union Trustees". It has been explained to us, Mr. Hicks, there is never a trustee set up except at the request of the membership of the union.

MR. HICKS: That has not been my understanding of the various trusteeships. Certainly in the States --

MR. MacDONALD: I think that is not strictly right.

THE CHAIRMAN: The great authority, Mr. "Casey" Dodds, told us in no uncertain terms the other day.



MR. MACAULAY: It wouldn't have been noticed if you had not drawn it to the attention of the reporter.

THE CHAIRMAN: Isn't Mr. Dodas considered a great authority by the Teamsters' Union?

MR. MacDONALD: The point I want to make, if a union gets into financial difficulties, it becomes right under the constitution for the parent body to take over the trusteeship, but the interesting thing, is that not the case on the company side, if the company gets into financial trouble -- again I am out of my depth here, on the legal aspect of it -- but it goes into bankruptcy.

MR. HICKS: Well, subject to the control of the court. The trustee remains under the control of the court.

MR. MacDONALD: It goes into trusteeship?

MR. HICKS: But the trustee is still under the control of the court.

MR. MACAULAY: And appointed by the court and discharged by the court.

MR. HICKS: Quite. Yes, fully controlled by the courts.

MR. MACAULAY: And he accounts to the court for monies taken in.

MR. MYERS: You say that it frequently happens. It occurred to me what you mean by "frequently", that unions frequently go into trusteeship. That is the thing that worries me. How frequently?



MR. HICKS: Perhaps that is a bit of an exaggeration.

THE CHAIRMAN: Page 28, "Termination of Bargaining Rights Upon Union Loss of Majority Representation". "Successor Unions".

MR. YAREMKO: Mr. Chairman, a question on bargaining rights. How would that be determined? who would be the judge whether the union actually represents the majority of the employees or not?

MR. HICKS: The board could establish its criterion, Mr. Yaremko.

MR. YAREMKO: How would you start?

MR. HICKS: with an allegation supported by some type of evidence.

MR. YAREMKO: Allegation by the employer?

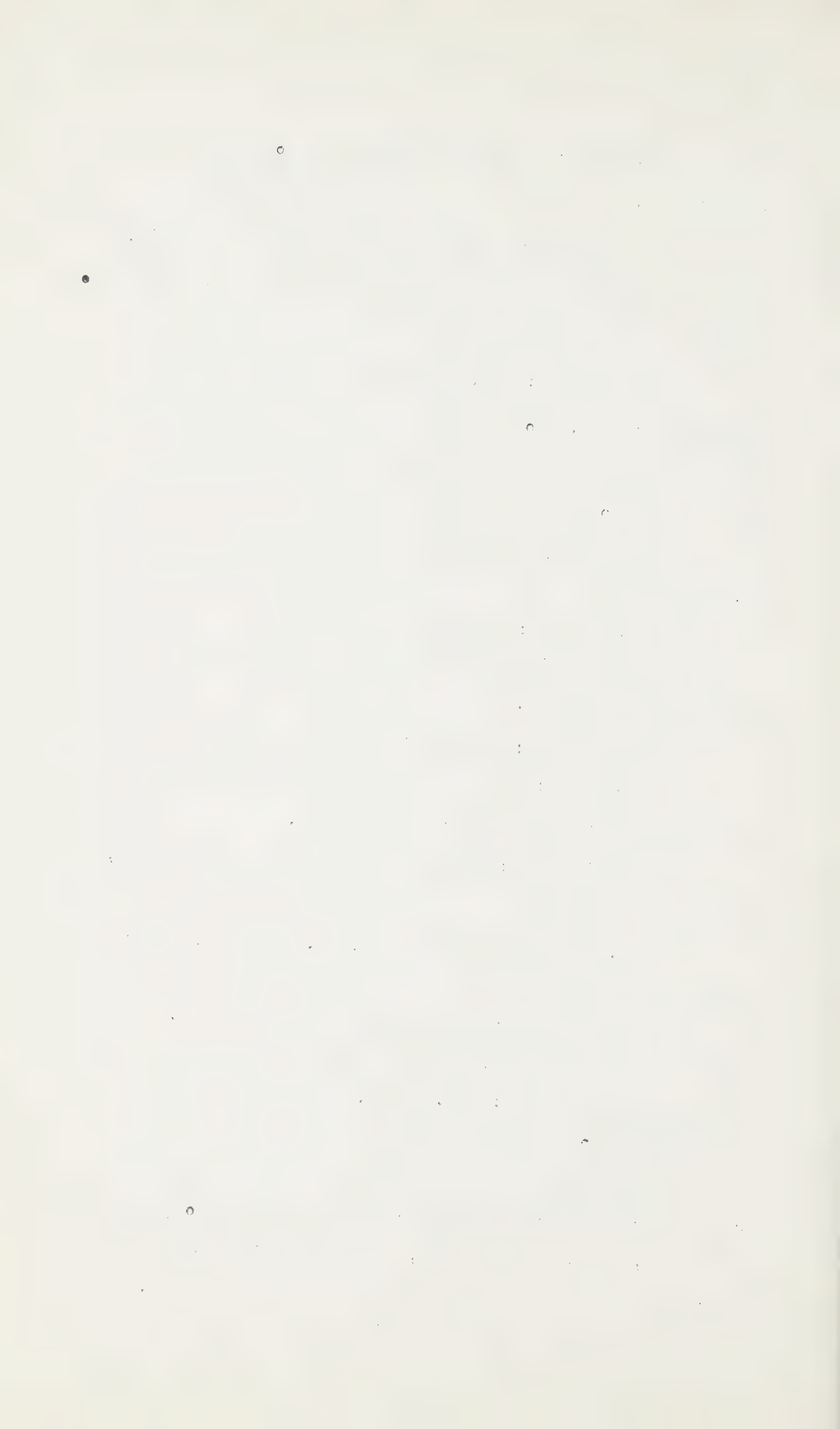
MR. HICKS: Yes, it would be upon allegation of the employer alleging lack of majority.

THE CHAIRMAN: "Successor Unions" (Section 44a), Page 29?

MR. MACAULAY: On Page 30, Mr. Chairman, under "Strike Vote" --

THE CHAIRMAN: We are just coming to that. I was going to arrive at that. "Strike Votes", Page 30?

MR. MACAULAY: Mr. Hicks, there has been some discussion before this Committee -- well, quite a great deal of discussion as a matter of fact -- that unions will call a strike without perhaps complete consultation, as you have said, and I am repeating, and perhaps they will refuse to call off a strike without consulting their members. Do you consult your shareholders' points of view when strikes



should be settled or when walk-outs should be called and so forth?

MR. HICKS: No, but again I fail to follow the suggested parallel.

MR. MACAULAY: I am not saying it is, mind you. I am simply asking you to tell me why it is not a parallel for I have heard in many cases it was.

MR. HICKS: I cannot speak personally. It is involving the board's policy.

THE CHAIRMAN: Yes, Mr. Hicks?

MR. HICKS: In the case of your company, the board of directors, which is normally the determining voice, it is representative of the major shareholders, obviously. It normally represents the majority of the shareholders so that they are effectively represented throughout on the establishment of strike or no-strike policy or offers throughout negotiation.

MR. MACAULAY: Oh, no. They were at the time they were elected representatives of the majority. That is quite so. The majority may never have contemplated this situation.

MR. MacDONALD: By the same token the executive of the bargaining unit are representative not only of the majority of the shareholders but of everybody.

MR. HICKS: Directors are in that majority shareholders.

MR. MACAULAY: Not necessarily. They may not be anything more than qualifying shareholders, qualified only





to hold seats on the board.

MR. HICKS: Let me suggest this to you: Take the illustration where the membership can not have arranged with its officers to call a meeting, where it is unable to require a meeting --

MR. MacDONALD: In most constitutions they have --

MR. HICKS: Well, what if that is ignored?

MR. MacDONALD: Presumably if it is ignored, it is ignored by their own decision.

MR. HICKS: By the officers.

MR. MacDONALD: Most constitutions have a provision that ten members can have an emergency meeting called at any time they so desire by filing a petition.

MR. HICKS: They take the petition, and the union hall is closed to them. What do they do?

MR. YAREMKO: They could go back in.

MR. HICKS: They face all the recrimination of being called "scabs", as Mr. MacDonald would call them.

MR. YAREMKO: If there is a substantial number?

MR. HICKS: They still risk that recrimination.

MR. MACAULAY: You are saying if the constitution requires them to have a vote before calling a strike and they don't, you say that is bad.. Do you know any constitution or any union requiring that they shall call a meeting to get the approval of the membership before they call a strike?

MR. HICKS: I understand that appears in some constitutions.



MR. MACAULAY: I was not referring to the meeting that must be called to get a strike vote. I was referring to anything under any constitution. A certain number of members can have a special meeting called.

MR. HICKS: Yes, but I was referring specifically to strike settlement meeting where employees have been unable to get a meeting for that purpose.

MR. REAUME: If there was a meeting of the rank and file before a settlement of a strike occurred; in other words, if there was a proposal on the part of the company, they would hold a meeting and have the rank and file vote on it.

MR. MACAULAY: What would they vote on?

MR. REAUME: I am talking about a vote on the acceptance of the proposal.

MR. MACAULAY: How could you?

MR. REAUME: They oftentimes do.

MR. MACAULAY: I don't see what you are resolving. A man often talks about the union having a meeting and having a vote as to whether they will accept something. But accept what? Management's proposal?

MR. HICKS: Certainly.

MR. REAUME: Oftentimes, yes.

THE CHAIRMAN: Page 31, gentlemen.

MR. MACAULAY: Whose proposal would you put up to the meeting?

MR. HICKS: The management's or the union's counter proposal.

MR. MACAULAY: There would be something in the Act



as to which proposal you should put up.

MR. HICKS: You are talking now with reference to a settlement vote?

MR. MACAULAY: Yes.

MR. HICKS: Yes. I think eventually it would have to be management's offer, or there would be no settlement.

MR. YAREMKO: Have there been many instances where a settlement vote or settlement meeting has been called where the membership at large does not take the advice of their leaders in regard to whether they should accept it or should not accept it?

MR. HICKS: Yes, sir.

MR. YAREMKO: Have there been many cases where the membership have gone against the advice?

MR. HICKS: Yes, sir.

MR. MACAULAY: Sure. There was a case the other day, not involving a strike settlement, but whether they should go on strike, involving Orinda employees, where the leaders' advice was to go on strike and the employees voted three to one against their advice.

MR. HICKS: Yes, sir, it happens quite regularly.

THE CHAIRMAN: Page 31, "Seven Day Limitation". Page 32, "Declaration of Unlawful Strike"(Section 59). "Illegal Picketing". Page 33, "Judicial Review of Decisions". Page 34, "Section 32". Page 35.

MR. MACAULAY: Have you any views on Section 78?

MR. HICKS: The board has no policy as to that section.



THE CHAIRMAN: Page 36, "Single Appeal". You are prepared to agree with the suggestion of Mr. Robinette in that?

MR. HICKS: Yes.

THE CHAIRMAN: Page 36, "Labour Relation Board's Judisdiction (Section 68)". Page 37, "Conclusion". Any further questions, gentlemen? If not, Mr. Hicks and gentlemen, may I, as Chairman of this Committee, extend to you our very sincere thanks and appreciation for the brief that you have presented to us and the very capable manner in which it was presented. You can be assured that this brief will receive our careful consideration in the deliberations we are going to have pursuant to making our representations.

MR. HICKS: Thank you, sir. We have appreciated your courteous hearing. If we can be of any further assistance, we would be glad to do so.

--- Brief of J. E. Houck Industrial Relations, 55 York Street, Toronto, taken as read.

--- Brief of Norman L. Mathews, Q.C., taken as read.

--- Whereupon the hearing adjourned.

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ONTARIO  
LEGISLATIVE ASSEMBLY.

THE PROCEEDINGS OF  
  
THE SELECT COMMITTEE  
ON  
LABOUR RELATIONS

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W. J. BINKLEY  
90 BINSARTH ROAD  
TORONTO 5



## LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 2  
Parliament Buildings  
Queen's Park  
Toronto, Ontario

TUESDAY,  
April 29th, 1958.

Morning Session

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

## MEMBERS:

G. E. Jackson  
Donald C. MacDonald  
Ellis P. Morningstar  
Raymond M. Myers  
Arthur J. Reaume  
H. Leslie Rowntree  
George C. Wardrope  
Albert Wren  
Hon. John Yaremko  
Hon. Robert Macaulay

APPEARANCES:

MR. J. B. METZLER - Deputy Minister of Labour  
PROFESSOR A. H. LOGAN - Toronto, Ontario

PRESENTATION:A BRIEF ON JURISDICTIONAL DISPUTES IN THE CONSTRUCTION INDUSTRY



THE CHAIRMAN: Gentlemen, it is now ten-thirty and the first business on the agenda is concerning the Minutes of our meeting held on January 28th, 29th, 30th and 31st. I presume that all of the members have seen these Minutes that were sent to you by Mr. Perkins. Would someone care to move their adoption? Moved by Mr. Reaume and seconded by Mr. Rowntree that the Minutes be adopted as circulated. All in favour? Carried.

MR. LEWIS: Gentlemen, may I interrupt?

THE CHAIRMAN: Yes. Mr. Lewis.

MR. LEWIS: I would just point out that as this Committee was reconstituted at the latest session of the Legislature it is now necessary to reappoint Mr. Perkins and Mr. Walsh.

THE CHAIRMAN: Would someone care to move? Moved by Mr. Wren, seconded by Mr. MacDonald, that Mr. Perkins be reappointed as Secretary of this Committee and that Mr. Walsh be reappointed as Counsel. All in favour? Carried.

MR. LEWIS: Now, the other thing that I have in mind, Mr. Chairman, is that, as you know, for the last series of meetings this Committee had a Hansard report taken by Angus, Stonehouse Limited, and there are two questions that now present themselves now that the Committee is reconstituted, firstly, that the committee consider it necessary to continue this verbatim report at all, and that if it is decided that it is necessary, whether to continue with Angus, Stonehouse or the recording which is set up on a trial basis, the tape recording method, and if it is decided to continue with any type of verbatim reporting perhaps you gentlemen might give consideration to this method.

THE CHAIRMAN: Well, I certainly think that the





Committee will require a verbatim reporting because we'll need it to consider the matters we will have to deal with in making a report, and while our memories might be good, I don't think they'll be that good.

MR. MACDONALD: I don't see why we can or should change at this stage, Mr. Chairman. If we don't need a verbatim report, we shouldn't have had it in the beginning. If we do need it I don't see why we shouldn't have it off the taping of the hearings.

THE CHAIRMAN: Will someone move that the verbatim report of the proceedings of this Committee continues?

MR. WREN: I'll move that.

THE CHAIRMAN: Moved by Mr. Wren and seconded by Mr. MacDonald that we continue to have the verbatim report. All in favour? Carried.

MR. LEWIS: Now, Mr. Chairman, I might say that, in my own opinion, at least, the Angus, Stonehouse hasn't been entirely satisfactory and was quite expensive. I don't know, I am not in a position to speak of this accurately, but there have been several occasions where I have had to check them up on their mathematics of their bills, and this gentleman has installed this system this morning on a trial basis and if the Committee would like to leave it open so that they can see how they like the report from this meeting, then perhaps Mr. Perkins and I could negotiate a contract.

THE CHAIRMAN: Have we any idea what the difference in cost will be between Angus, Stonehouse and this new system?

MR. LEWIS: I don't believe Mr. Perkins can give any figures at the moment but I think we are both assured that it would be somewhat noticeably cheaper than Angus, Stonehouse. Is that so, Mr. Perkins?

MR. PERKINS: Yes, Mr. Chairman, there is a difference in the cost that I have not been able to fully calculate as yet because



the cost involves the quantity; I think we should decide whether we need the same quantity as we had before. Last time we had eighty copies, and in addition to the Committee and Government officials getting copies there were about forty copies distributed to the main manufacturers and unions.

THE CHAIRMAN: I can't see where we can reduce the number. We decided on that before, and I think we should perhaps negotiate on the same basis and let us have a report at the next meeting what the cost will be for that same quantity. Does that meet with the approval of the Committee? That's all.

This morning, gentlemen. . . is there any correspondence, Mr. Perkins?

MR. PERKINS: Mr. Chairman and members of the Committee, I have a letter this morning from The Association of Professional Engineers who have at this late date made application to present a Brief to the Committee. It isn't ready yet and I told them that the Committee were desirous of completing their Briefs by the 9th of May and that they should have their Brief ready, and I believe that they will attend on the same day that the Hydro Engineers have a Brief to present, which is May 6th.

THE CHAIRMAN: What does their letter say, Mr. Perkins?

MR. PERKINS: I left it upstairs, Mr. Chairman. I thought this was it, but this is the Mayors and Reeves.

THE CHAIRMAN: They were in touch with me and I understood from them that they could not be here on the same day as the other group to whom you referred.

MR. PERKINS: Oh, was that yesterday?

THE CHAIRMAN: No, it was in Renfrew. Somebody phoned me from some law office here, I think it was Mr. Carson or McArthur. . . I've forgotten now.

MR. PERKINS: Well, I'll get that clear.



THE CHAIRMAN: I told them to write to you.

MR. PERKINS: I told them yesterday that I wasn't in a position to make any appointments after May 9th because I hadn't any instructions from the Committee. If the Committee are meeting the following week it would suit them better. The main reason that they are a little bit handicapped is that their chief executive officers are attending a convention in Vancouver.

THE CHAIRMAN: When will they be back from Vancouver?

MR. PERKINS: The week after May 9th, that is about the 15th of May.

MR. ROWNTREE: Well, Mr. Chairman, there's the Power Engineers, too, they were interested in presenting a Brief, weren't they?

MR. PERKINS: That was the Power Engineers? They presented a Brief last Fall which didn't concern the Labour Relations Act. It concerned the Operating Engineers Act which is operated by The Department of Labour but not under our terms of reference, and I wrote and told them that I couldn't receive their Brief under the circumstances because the contents of it had nothing whatever to do with the terms of the reference of this Committee.

THE CHAIRMAN: The Brief, Mr. Perkins, to which you referred as being presented on the 6th, is that a very lengthy brief?

MR. PERKINS: No.

THE CHAIRMAN: I presume the Brief that these other people seek to present is likely not to be lengthy either.

MR. PERKINS: No.

MR. ROWNTREE: Mr. Chairman, would it be in order to hear this Brief, say, toward the end of our hearings, immediately before we consider the report itself?

THE CHAIRMAN: Well, I'll tell you what my idea is, gentlemen, subject to the approval of the Committee, of course, is that





as soon as we conclude our hearings that we should immediately get down to work on preparing our report. It would allow us to have a week off to consider the Briefs that have been presented individually and then that we should meet and immediately get down to the business of preparing a report. And, what I was going to suggest was, in accordance with Mr. Rowntree's suggestion that it is possible that this Brief is going to be short---that we should hear it on the first day that we would reconvene for the consideration of the report of this Committee. Does that meet with the approval of the members of the Committee? Would you care to move that that be done, Mr. Rowntree?

MR. ROWNTREE: Yes, I so move.

MR. YAREMKO: Mr. Chairman, I must apologize for being a few minutes late, but would you recapitulate shortly what has been dealt with?

THE CHAIRMAN: A letter to Mr. Perkins on behalf of The Professional Engineering Institute of Ontario whose executive officers are going to be in Vancouver until after our last hearing on the 9th of May; we hope to conclude the hearings before this Committee on the 9th of May, and they seek to make a presentation to this Committee, and I understand from Mr. Perkins that the one they want to reply to will be brief and that their's shouldn't be any longer and we thought that we could accommodate them by hearing their Brief on the first day we start to consider our report. It has been moved by Mr. Rowntree and seconded by Mr. Reaume that the Professional Engineering Institute be permitted to submit their presentation to this Committee on the first day we sit to consider our report. All in favour? Carried.

MR. PERKINS: I have a letter from The Ontario Land Surveyors. That organization presented a Brief to this Committee some time ago in which they recommended that Land Surveyors be treated as professional status and be exempt from the Act. They now request some





immediate relief from the situation they find themselves in which Land Surveyors are being forced to join an employee's union. I think perhaps this is a matter which should come up this afternoon when Professor Finkleman. . .

THE CHAIRMAN: We have no authority to give them relief.

MR. MACDONALD: That should go to The Department of Labour not to this Committee.

THE CHAIRMAN: That is not within our terms of reference of this Committee. We can't absolve anybody. . .

MR. MACDONALD: I mean, whether the Department of Labour can do anything is another question. Certainly we can't.

MR. PERKINS: They say here, that as it will be possibly another year before the Legislature meets again, it would be desirable to obtain a ruling to the effect that Land Surveyors are exempt from the Act from the Labour Relations Board.

THE CHAIRMAN: We have no authority to make rulings--- only recommendations to the Legislature. So, you'd better answer them to that effect. Is there any further correspondence?

MR. PERKINS: I have a letter from L. Z. MacPherson, Q.C., of Windsor, who was the lawyer presenting the Brief on behalf of the Windsor manufacturers, in which he makes some suggestions in connection with jurisdictional disputes in the building industry. I think that comes up under the heading of this morning's discussion. Apparently down in Windsor within the last three weeks they have had three or four tie-ups of jobs through jurisdictional disputes. I think this matter will come up when Professor Logan presents his paper this morning. Mr. MacPherson points out that jobs at Amherstburg at Calvert Distilleries, and the Accension University and the Stratford Fiesta are all tied up with jurisdictional disputes at the present time.

THE CHAIRMAN: I hope they don't propose that we could



settle them.

MR. REAUME: Which one?

MR. PERKINS: The last one was the Stratford Fiesta.

MR. MACDONALD: Mr. Chairman, do I understand that the general business of the Committee is to try to move toward the making of the report in the last part of May and in June?

THE CHAIRMAN: That is what I had hoped to do. I feel that this Committee shouldn't allow too long a time to elapse from the time of hearing the Briefs until we get down to our report.

MR. MACDONALD: Are you planning to present it to a Fall Session before the election?

THE CHAIRMAN: Well, I don't think it has been suggested, Mr. MacDonald.

MR. MACDONALD: It hasn't, eh.

THE CHAIRMAN: I don't know whether there will be a Fall Session or not. There has been nothing suggested to me to indicate that there is anything to worry about.

MR. MACDONALD: I'm not.

THE CHAIRMAN: But, what I thought we'd do is wack out a report, unanimous if we could achieve unanimity, and if not, whatever report the Committee chooses to make and we submit it to the Clerk of the Legislature and our job is done. I won't have the pleasure of making a speech and I imagine everybody will be glad of that. Any further correspondence?

This morning, gentlemen, we are to hear from Professor Logan on the question of jurisdiction of disputes in the construction industry.

MR. METZLER: Mr. Chairman, before Professor Logan starts I would like to make one or two observations to the Committee. One, I would like to inform the Committee that we have been fortunate



to reinstate the idea of having a paper prepared on the Taft-Hartley Act. Professor Laskin will have that paper available by Monday morning, and while we have a full day, if you will grant permission he will appear at 10:30, present the paper to you so that you will have an opportunity of reading it and then, if time develops during the week he will, on very short notice, come down and take part in any discussion of his paper if that is the wish of the Committee.

THE CHAIRMAN: Does that meet with the approval of the Committee? Will somebody so move?

MR. JACKSON: I will move it.

THE CHAIRMAN: Moved by Mr. Jackson, seconded by Mr. Myers, that Professor Laskin be requested to submit the paper on Monday next at ten thirty very briefly so that the members of the Committee can receive the report and consider it and it can be gone into in detail later. All in favour? Carried.

MR. METZLER: The second thing that I would like to mention is the fact that we have been working on a summary of time lapse in connection with conciliation. That is going to be available on Thursday. We had hoped that it would be ready for tomorrow morning, but it is a very long documents; it runs to about 120 pages. Again, we will present that briefly, I would suggest to you and that is the wish of the Committee, and you would have an opportunity of looking at it over the weekend and, again, if time developed, we would then make ourselves available to discuss any and every aspect of it that the Committee wishes to consider. Professor Finkleman will have a couple of documents available for tomorrow morning if that is acceptable and we can go on with them.

Coming to this paper this morning, I may say a brief word -- Professor Logan has been assisting the Department in research in connection with the matters that have been coming before the Committee and he has undertaken this study of jurisdictional disputes in the construction





industry. He has had a free hand to go into every aspect of this work. The document is his own. He has received no instruction or direction from the Department other than to study the history in Canada and in the United States. He has been in Washington and he has gained information there which is included in this Brief, but I wish to make it clear that the preparation of this document has been in the hands of Professor Logan and he will explain it and offer any comments that you may desire on the document in question.

THE CHAIRMAN: Professor Logan, are you ready?

PROF. LOGAN: Yes, gentlemen. Well, this paper, Mr. Chairman, has been stimulated somewhat by the Brief which was submitted by the Contractors, that is, The Toronto Builders' Exchange and The Canadian Contractors' Association---the Canadian Construction Association, I believe it is, and one or two others, and a Brief submitted here sometime ago by Mr. Piggot and Mr. Adams, I suppose the Committee recalls. I am not going to suggest that I am reviewing the total of their remarks in any sense, but I am just giving background here to this paper which I am about to read. Among other things that they did emphasize in their criticism of things that exist in the collective bargaining relations of the industry at the present time was the scattered and unco-ordinated manner of Labour's physical approach to industrial relations associated with the many craft unions which all bargain separately in their relations with the Exchange, which as they see it, makes for a time wasting ineffective collective bargaining structure.

And secondly, and associated with that, certain unfair labour practices, notably disputing among themselves, the unions, using picket lines and threatening stoppages which seem to have their origin according to their interpretation of it in large measure in this craft-separated unions.

Other matters were introduced of equal importance, I suppose, in their Brief but they have no relation in particular to this paper.





So, with that introduction I am going to start in to read the paper which you have before you.

(PROFESSOR LOGAN READS BRIEF WITHOUT DEVIATION FROM TEXT TO PAGE 4 AT END OF FIRST PARAGRAPH):

Just to depart for a moment -- Who shall nail the sheets of rock wall on a building is evidently something that can't be decided by a Labour Relations Board, something quite different from the jurisdictional disputes having to do with members in unions and which unions shall receive certification. The text again:

(RESUMES READING BRIEF WITHOUT DEVIATION TO PAGE 5 AT END OF SUB-PARAGRAPH (b):

Departing again - Raising that question why this should be the property of the National or International union, it's written in the constitution of the Internationals what shall constitute the area of work, type of jobs that shall be done by all branches, all the locals in the craft.

(RESUMES READING BRIEF WITHOUT DEVIATION TO PAGE 6 AT END OF FINAL PARAGRAPH):

Pausing again -- This Dunlop that I am speaking about here was for many years the Chairman of the National Joint Board in Washington and we'll hear of that Board as we continue.

(RESUMES READING BRIEF TO PAGE 8 AT END OF SUB-PARAGRAPH (c):

Again off the paper -- I want to say that that (c) part is not confined to jurisdictional disputes, it is causing irreparable loss from the damage suits, but it does apply to the jurisdictional dispute item.

(RESUMES READING BRIEF TO PAGE 25 AT COMMENCEMENT OF FIRST PARAGRAPH):

MR. YAREMKO: What does that mean?

PROF. LOGAN: Friend of the Court

MR. YAREMKO: Professor Logan, does this mean the



Lathers' Union struck twice?

PROF. LOGAN: No, I don't think that it means that it struck twice. It is the repetition here. The Lathers' Union struck against the National Joint Board's decision.

MR. YAREMKO: Then you say that "thereafter the Joint Board reaffirmed its original decision," and then "when the Lathers struck". . . I am going back to Page 24 at the bottom.

PROF. LOGAN: It reaffirmed its original decision, I presume.

MR. YAREMKO: All during this time the Lathers were out on strike?

PROF. LOGAN: Yes, I take it from that. This is, however, something between the two Boards, the National Joint Board and the Government Board, they're working through this particular way of hearing to a definition of relations between the two Boards.

( RESUMES READING BRIEF TO PAGE 26 AT  
SECOND PARAGRAPH "Reference to Canada"):

Now we come to the reference to Canada, and here, of course, I'm not interpreting the American Act and the remarks are necessarily tentative and somewhat my home-coming.

(RESUMES READING BRIEF TO PAGE 27 AT  
". . . employers' responsibility in Board operation."):

I stand subject to correction in that. I am making a statement there that I do not know to be true, but that is the impression that I have gotten.

(RESUMES READING BRIEF TO PAGE 31 AT  
FINAL SUB-PARAGRAPH):

That Article 4 has to do with community. . . page 14. . . half way down. . . entitled Local Settlements. . . (RE-READS ARTICLE IV).

THE CHAIRMAN: Thank you very much, Professor.



MR. MACDONALD: Mr. Chairman, one point of information on Page 30. . . on Page 30, Professor Logan, the paragraph that concludes near the bottom of the page -- "It should not, however, have final authority in making job decisions." Well, if this sort of auxiliary group in Ontario, that is auxiliary to the National Joint Board in Washington doesn't have that authority, who would have it. . . the Board in Washington?

PROF. LOGAN: That would be the expectation.

My feeling there is that in the operation of this National Joint Board's activities, if it is going to really mean something as a co-ordinating agent and lay down its universal rules through its agreements between the unions which it attests or through its own decisions which have been elevated to decisions of records, it is not in a position to leave final authority in decisions.

MR. MACDONALD: May I ask you just to make certain that I am clear in my own mind the difference between these two alternative solutions, and one is that you would, in effect, have a sort of a duplicate body in Canada who will work in close co-operation with the. . . to a degree subservient to the one in Washington. The other one would be to concede from the outset that the Washington body is the appropriate body and to have, in effect, investigators who are familiar with the Canadian scene who brought the details and circumstances of any Canadian jurisdictional disputes to this group in Washington, but without any Canadian representation on the deciding group, on the deciding Board. Am I right?

PROF. LOGAN: My whole expectation of this paper is that Canada is represented. . . should be represented. . . is represented now on the National Joint Board so far as Labour is concerned, but what about Management, but on Management's side it is not represented.

MR. MACDONALD: But your proposal here is that it envisages that in some fashion or other Canadian Management would have





representation on the Joint Board.

PROF. LOGAN: Yes.

MR. MACDONALD: In Washington.

MR. YAREMKO: Professor Logan, my impression of the Brief is that from the point of view of management I have suggested very strongly that if management in Canada said to Labour -- you make the decisions, you decide amongst yourselves the jurisdictional dispute and we will abide by it. Now, if that were carried out, in my mind, to a hundred per cent degree, then there might not be any necessity for management participation. And, do I infer from your remarks that the statement of management that they are quite content to abide by this decision of Labour is not a hundred per cent the fact?

PROF. LOGAN: Well, I think I would have to get clarified a bit on your interpretation there, that management doesn't make the decision itself -- it looks to the two parties who have had two unions in front of them, and says to them -- now, you make the decision, shall it be carpenters or shall it be lathers who are going to do this job and I will obediently fall into line with your position.

MR. YAREMKO: Is that a fact, or is that just a statement? Has it occurred and has that practice been followed in Ontario?

PROF. LOGAN: Well, no. . . I'm not in a position to make that statement. I am not in a position to support it or debate it. But, my impression of the situation is that a contractor has a responsibility





and very often the decisions may be made in relation to some particular group, he's a sub-contractor that he has on his own working force, and he is not going to say to them and to some union from outside -- now, you decide this, which one I will employ. . . I'll assign this work -- I think the expectations of this National Joint Board is that the contractor has a responsibility himself for making decisions.

MR. MACDONALD: Professor Logan, if the contractors are not involved in the Board which makes the decision, are we not likely sooner or later to run into a difficulty in enforcement. It seems to me one of the strengths of the American position is that the contractors are involved, therefore, they participated in the decisions. . . so did labour. . . therefore, when it comes to enforcement it finds there are no ifs, ands or buts about it, but if the Canadian contractors are not involved at any point along the way -- they may voluntarily forego their participation at the moment -- but it seems to me you are going to run into, eventually, difficulties of enforcement, although perhaps I am raising. . .

PROF. LOGAN: We have already run into that, I think, as far as that is concerned. You have really here something which is kind of an anomaly, you have the constitution laid down by this department of the American Federation of Labour that the way of settling jurisdictional disputes by all of these International Unions of the A. F. of L. and C.I.O., is by this method, and the assumption is in that that contractors also are organized, it certainly has been in recent years, that they are participating in the activity of making the fair decisions. Now, the Canadian members of the carpenters and of the lathers' union are just as much under the constitution as set forward there and it is written in their own Building Trades Councils that these are the way to handle these matters. On the employers' side there is nothing corresponding to it. And, as you say, it's likely to be that enforcement is likely to be satisfactory. There is no possibility of holding the employers to this, the



contractors on their side, and that being the case the tendency is for the unions to take the bit in their own mouths on occasions and do more or less what they like.

MR. MACDONALD: It seems to me that if we contemplated moving toward the establishment of some sort of both tribunal candidates work with the body in Washington plus enforcement machinery, that it would be necessary to get specific clearance from the Canadian contractors as to whether they are willing to forego participation in the decisions.

PROF. LOGAN: Well, it may not matter at the moment. In the main they are not willing to participate in the total continental process but they would like to participate in decisions on Canadian soil only.

MR. MACDONALD: Well, how would you do that?

PROF. LOGAN: That's what I can't say. As a matter of fact, there is no particular authority in Canada -- the general presidents of the unions are not in Canada to issue their orders -- and my feeling about it is that if there is going to be any universality in these judgment-shipisms is veritably true, they are trade wide, like I said there -- carpenters are the same all over these two continents and they don't change the relationship between carpenters and lathers according to their apprenticeship rules and so on, do not change colour at the boundary line; they are the same all over, and the only way to have similarity in decisions -- and Mr. Mitchell threw this out to me and said they had gone wrong in the United States in allowing too much area; it got them into trouble. And these things are trade-wide.

MR. ROWNTREE: Professor Logan, I appreciate the ramifications of the problem that you are endeavouring to deal with. It seems to me that the important thing. . . the point that runs through your broad scheme of solution involves the surrender of our sovereignty here, either in Canada or in Ontario, making us subsidiary and subservient to



a Board established in another country. You may be aware, or are you, Professor Logan, in the United States their philosophy of law making differs substantially from our's here in one important respect in that they don't hesitate to attempt to regulate or control conduct of their citizens outside the country, or of organizations in their country. Would you think that the labour force of Ontario on the one hand and the contractors or employers on the other would be willing to surrender their sovereign rights and ultimately -- and I'm not being facetious when I say this -- in effect, as far as labour goes, we would become the fiftieth State of the Union?

PROF. LOGAN: I raise the point there, Mr. Rowntree, the suggestion is not that this National Joint Board should be American rather than Canadian -- Canadian Labour is in it now just as much as any American Labour. It is true that the people who actually do the talking before it, I believe, are mostly the general presidents of Labour and the leaders of the big specialty and general contractors associations, but the invitation has always been there for the Canadian contractor as well as the others to operate in it. But it seems to me that this issue is the issue of International Unionism. If, in that manner, we are giving away our sovereignty, we have given it away in a good many other ways.

MR. MACDONALD: We have given it away in defense. It happens this develops a different kind of world we're living in.

MR. ROWNTREE: I hope you are not suggesting that that has become justification for further definiteness and a general pattern.

MR. MACDONALD: No. What I am suggesting, and I don't want to get into an argument, into what I would feel is sort of an exaggerated concept of nationalism, is that you have a problem to solve. Okay, if you can't solve it, and it seems to me on the surface that you can't solve by a strictly national approach, then obviously it is just plain common sense that you should take the international approach and in so doing you're only continuing a development which has existed for quite some time.





MR. ROWNTREE: Professor Logan, could we go back for a moment to the fact that no real effort -- that there's a different situation here in Canada, not by way of problems, but by way of the available remedy than in the United States. Now, would you agree with that? I think you so stated here in your thesis. That the Canadian Labour Force or Unions have adopted a different procedure for taking their inter-union disputes to their leaders. What I am coming to. . .

PROF. LOGAN: I don't know that they have greatly, Mr. Rowntree. I think they have adopted the same method. As a matter of fact, jurisdictional disputes have never been settled by the Canadian Trades and Labour Congress.

MR. ROWNTREE: Well, is there any reason why they couldn't set up some machinery within the Canadian organization, to your knowledge?

PROF. LOGAN: It seems to me there are two problems arising out of it, and I very much appreciate what you are talking to in both these matters. We're only a small cog in a wheel in this sense, and when you are talking about this Board being an American Board and not a Canadian Board, in some sense I think that is true in spite of the fact that we have representation. It has been found in these activities of the International Unions that the Canadians sometimes are not big enough in the big conventions to go too far, but this matter of the problem being a different one in Canada, we have our Canadian Labour Congress for legislative purposes which is distinctly our own, that is, the Canadian Labour runs the Canadian Labour Congress, presumably, although there are International Union representatives there who are paid from headquarters even in the debates of the Canadian Labour Congress. But, in matters of collective bargaining, as I have said here in the Brief, matters of bargaining, the road of strength runs along the individual union from the local right to the top, and the International president is clothed with





powers limited somewhat by his executive Board to give orders which are expected to be fulfilled here in Kitchener just as much as in California.

THE CHAIRMAN: Professor, what significance to this new Section, Article XII of The Canadian Labour Congress establishing a building trades department that you refer to in your Brief?

PROF. LOGAN: Well, it's in line with the very evident feeling that we might do something community-wide, or on a local basis or on a provincial basis. I think this refers more to a smaller community that an area development might be worked out there and a plan for that area within the larger plan and that that would have to do with the making of job decisions here close to home.

THE CHAIRMAN: Would that still be subject to Washington?

PROF. LOGAN: I think it does say, doesn't it, that these community plans -- "Any such local settlement or agreement shall only apply to the particular job in question and an appeal therefrom may be taken directly to the Joint Board by any of the parties involved as provided for in Section 1, Article III.

THE CHAIRMAN: Mr. Jackson.

MR. JACKSON: Professor Logan, I was just interested in what Mr. Rowntree had to say about the Canadian as opposed to the American jurisdictional board, and call it what you like, whether it be a branch office or some subsidiary, shall we say, of the Washington Board, it could be worked out something along that line run by Canadians. Would you not agree with that? Now, if that Board had to answer to the National or the Ontario Labour Relations Board, or a National Labour Relations Board, would it not then eliminate the worry that Mr. MacDonald is talking about, of worrying about contractors coming in -- we wouldn't care then, would we, if the decisions of the jurisdictional board were held as bona fide by the National Labour Relations Board? Wouldn't that eliminate your worry about participation?



PROF. LOGAN: Well, are you thinking there of this Canadian body, we'll say Board, which might be set up to carry on this activity would be using the same background of decisions and agreements of record as are being used in Washington, or not?

MR. JACKSON: It would be the same stew with a Canadian flavour. I mean, there are certain things that are different in Canada than there are in the United States and it would be the job of this Canadian -- it would have the Green Book to fall back on -- it would have the agreement that you mentioned in here, shall we say as its guide, but it would be, as far as applicable, it would follow the National Jurisdictional Board of the United States, and then have their decisions upheld by the National Labour Relations Board.

THE CHAIRMAN: Yes, but they can appeal to the Labour Relations Board, isn't that the practice?

MR. JACKSON: Yes, certainly, in the States, but I am talking about the way you would bring people in, then you wouldn't care whether contractors joined or not.

MR. WREN: Mr. Chairman, Mr. Jackson's suggestion is a good one but is there not a problem there? Supposing one or more of the unions involved neglectfully refused to abide by the decisions the Canadians made, where would they be disciplined by their international officers if they refused to participate after the decision is handed down. What I'm getting at is the final law in this case, as Professor Logan has said, is with the international president and the international executive and the Canadian group just neglects or refuses to abide by the decisions.

MR. JACKSON: If they are following the one in Washington, I don't see where their international president would have any objection at all.

MR. WREN: Oh, I'm not saying he would have any objection, but if it is necessary, say, to bring the Canadian Dir-



ector of that union into line.

PROF. LOGAN: They do it now.

MR. WREN: Oh, yes, yes. But, if you were going to set it up entirely Canadian in character is there not the possibility that line of enforcement might be cut out.

PROF. LOGAN: Then he is breaking off the liaison with the international headquarters.

MR. WREN: Oh, Professor Logan, in this case the establishment of some important machinery in Canada presumably would duplicate or parallel the one in the States and. . .

MR. MYERS: Why couldn't the Canadian unions agree amongst themselves to be bound by the decision of the Joint Board in Washington and then in collective bargaining agreements between Canadian unions and contractors there could be a provision that the Joint Board's decision would apply, then I would imagine Canadian courts would enforce that if the parties are prepared to be bound by the United States' decision -- why wouldn't that be all right?

PROF. LOGAN: I am under the impression that there should be some legislative responsibility for picking up the enforcement aspect of it. It has got to be carried forward somehow.

MR. MYERS: Well, carry it forward by agreement. People can agree to anything that they like. I wonder if Mr. Walsh has any views on this?

MR. WALSH: I consider it should be determined in Canada, why should we rely on the United States?

PROF. LOGAN: You are going to have different decisions in Canada and the United States and circumstances.

MR. WALSH: In certain instances United States decisions can be quoted to them, but why should we be a wheel on their chariot?





PROF. LOGAN: Coming back to Mr. Jackson again, if I might insert myself in the discussion, your thought is that this interpretation of the background decisions there and agreements as already developed by this Board could be handled, perhaps, by a Canadian body just as well as by the continuing National Joint Board over there.

MR. JACKSON: Yes. That's right.

PROF. LOGAN: Then it wouldn't be a loss of face, sovereignty and so on.

MR. JACKSON: And you have the experience to draw on. We've been all through it.

PROF. LOGAN: Yes. Well, I think that we've all perhaps bound to be thinking of that. It is simply a matter of whether we have the authority, whether we have the personnel within international unionism to carry through union's side of it that is not being at the present time, to really develop this type of activity, and the problem of keeping Canadian interpretation in line with the American interpretation with two distinct Boards, or would they almost be sure to drift away apart in the course of time?

MR. JACKSON: I don't think that is a fact, that they do drift apart. Because if the people are the right kind of people they will be applying their decisions as is applicable to Canadian conditions. I'm thinking of catching up on the backlog by taking their decisions as are in the Green Book and using their experience, and I don't think it is very bad that if in time they do drift apart. I think that is probably good. It's becoming Canadian and we have different conditions, different laws, and so on, and they are bound to drift apart.

MR. YAREMKO: Professor Logan, in your Appendix on Page 4 - Stoppages in Ontario Jurisdictional Disputes - you have in 1954 - 4, in 1955 - 1, in 1956 - 1 and in 1957 - 1, so in a period of four years there have been only seven stoppages of work due to jurisdictional





disputes. Is it a far greater problem, then, as indicated by the number of work stoppages?

PROF. LOGAN: Well, in the contractors they stress the threat of stoppages more, I think, than they did the actual stoppages. But, I hold a question mark myself over these figures, because I put in a note at the bottom - that is taken from strikes and lockouts in Canada. Department of Labour, Ottawa, and subject to whatever weaknesses may be in assigning causes to strikes by the people who report these matters. Now, some of those that are not mentioned at all there and are counted as wage strikes, perhaps. . . union security strikes. . . there might have been jurisdictional stoppages mixed in with them, because nothing indicates in the record as laid down at Ottawa that these were jurisdictional stoppages. And we want to draw a very distinct line between jurisdictional disputes and stoppages. Jurisdictional disputes there are bound to be, but jurisdictional stoppages I should think that they're out to remedy and cure. But, I don't want to father that table myself until it has been investigated somewhat more.

MR. YAREMKO: On page 28, Professor Logan, you referred to a case (in the second paragraph from the bottom) an Ontario case, and I think if we direct our minds in this direction, it would appear here that the Joint Board had made an award and the offending union refused to abide by this award and the complaining union threw up a picket line. Should not we direct our minds, now that that union, the offending



union did it by itself or with the concurrence, I assume, of the employer because the employer might have in that case have ceased to employ members of the offending union and engaged members of the complaining union to do the work. It doesn't say here whether it was basically the fault of the union or the management which continued the thought about the picketing. Should we not direct our minds as to how we could enforce in Ontario the decision in regard to this jurisdictional dispute regardless of whether it was decided here in Ontario or elsewhere. The parties have agreed amongst themselves to go to someone to make a decision is not our problem in Ontario to see that that decision the parties definitely agreed to abide by was in fact carried out.

PROF. LOGAN: That is the point that I have been making largely. That the parties have agreed themselves by solemn pact to abide by the decision of the Board. . .

MR. YAREMKO: Why couldn't it be done, as I said before, by agreement? If it is done by agreement, and unions can be sued why just can't they. . .

PROF. LOGAN: They should not have a stoppage of work. The trouble is that we have no supporting legislation here to fulfil the expectations of the National Joint Board's decision.

MR. MYERS: How would that be done? What form do you think the legislation should take?

PROF. LOGAN: Well, I made the suggestion there that it might be done through being carried along; that is assuming that any advisory activity that we have been bringing to play on them hadn't been sufficient to help the situation and if it came to an enforcement it would have to go along to someone to make an application, possibly, or an injunction to prevent them from leaving their jobs. You might have it somewhat different from that, you might have somebody with cease and desist orders from the National body.



MR. MACDONALD: Mr. Chairman, I just want to ask on that particular point. . . would you feel that granting the power to the Ontario Labour Relations Board of issuing cease and desist orders to cope with this and other Ontario labour practices would meet the situation?

PROF. LOGAN: Well, if the Ontario Labour Relations Board were clothed with a responsibility or/and responsibility to take account of Joint Board decisions which they are not and which I believe they feel no responsibility for looking into at the present time. They're not in contracts. But, whatever body has the responsibility of doing something by way of enforcement they should have some legislative responsibility.

MR. MACDONALD: I suppose there you would run into a very real problem legally of the kind that Mr. Rowntree raised that having one Canadian body having to take cognizance of decisions of another one, and that maybe would require having your auxiliary group in Canada.

PROF. LOGAN: Do you mean the expectation of some body taking cognizance of another body?

MR. MACDONALD: Well, the Ontario Labour Relations Board being legally empowered or instructed to take cognizance of the decisions of a Board in Washington, there may be a real legal problem there and that might be the imperative need, that might be the point at which it would be imperative that you establish in Canada the equivalent of the Joint Board in Washington which, in turn, would work closely with it so they wouldn't get any serious divergence in their interpretations and decisions.

PROF. LOGAN: Our courts don't recognize any American decisions and they are not binding upon our Canadian courts.

MR. MACDONALD: That's my point---can our courts recognize them legally?

THE CHAIRMAN: I doubt it.

PROF. LOGAN: Mr. Dunlop makes a suggestion there





at one place that the clause might be put in contracts themselves, that settlement might be by way of the regular method which would bring it, I suppose. . .

MR. JACKSON:           You can bargain that way now, I assume.

PROF. LOGAN:           There is quite a lot of that done, as a matter of fact.

MR. ROWNTREE:       Well, Professor Logan, from my experience with Canadian labour unions, I think they've got some pretty intelligent people here in Canada capable completely of being members or sitting on a Board of Canadian origin and authority. Is there any question in your mind that we don't have those facilities?

PROF. LOGAN:       No, it is not a question at all of comparative intelligence and integrity of Americans versus Canadians, it's simply what we've got to work with. We're in the field of international unionism with the constitutional requirements imposed not only upon Americans but Canadians. It is interesting, perhaps, if you were to read the constitution of the Toronto Construction Council -- The Toronto Trades and Building Council - you'd find there that it gets its charter from this Department in Washington of the A. F. of L. and C.I.O., and that it is exactly the same in its essential content as the constitutions in Michigan.

MR. ROWNTREE:       I know the point you are making, but let me say this -- having in mind, let's face it, the responsible thinking of the vast majority of our labour leaders in the United States as well as Canada, that surely that charter of an Ontario local from an International Union must involve the understood terms that the local in Ontario, or Michigan, will comply with such laws as exist in Ontario and in Michigan, and that the heads of the International Union would recognize that, because the result of anything to the contrary would mean that the heads of an International Union would be trying to direct conduct contrary to the laws which exist where their members reside. Now I don't think that would





develop, do you?

PROF. LOGAN: No. I think the question is rather how far it is wise to work with institutions which have developed in our respective countries and which have the prestige of practice and the years in making new legislation and how far this should be recognized and be sought to be used, and if you do throw up something which is ineffective and which is, by its nature, it would tend to split the international unionism while it might be favourably received by some people I suppose it would not be by others, distinctly would not be by others. But I think your problem here will -- a body which you set up in Canada looking into the jurisdictional disputes at that stage rather than the enforcement stage now, this advisory stage -- if you allow it to make its own job decisions as is suggested and in the course of time build up decisions of record - agreements -- will it be able to keep sufficiently close to the American to - at the present time I withdraw that word "American" - to the present continental system, or will you be building up something which will be in contrast at many points and, if so, is there any particular reason why it shouldn't be in contrast? The only feeling I have about it is that it is international unionism and the way these matters have been handled in the past there hasn't been any distinction really been made for international boundaries.

MR. MACDONALD: Mr. Chairman, I would like to comment on Mr. Rowntree's observation. It seems to me that this -- I agree with him that Canadian labour has the intelligence to establish a comparable body and everything else, but I think as a result of that intelligence they recognize the necessity of a degree of international co-operation of it and the continuance of it, which you presumably deplore of it.

MR. ROWNTREE: Did I say that?

MR. MACDONALD: No. I say presumably you felt that it would be better to have it on a sort of a National basis.



MR. ROWNTREE: Well, I was just examining it, that's all.

MR. WREN: Professor Logan, what was the experience in the States, particularly under the Taft-Hartley Act, where you have major unions who are not signatories to a general pact, to wit, expelled unions. I was at the Canadian Labour Congress Convention in Winnipeg last week -- two, one particular union, The Operating Engineers who are very active in the building trades, and following their expulsion, the carpenters officials around there in the halls, at least, voiced the opinion they wouldn't be long associated with the C.L.C. Now, you have a situation -- or, how is it handled in the States where a significant union is outside the pale of the agreement and continue with a jurisdictional dispute? Is there anyway to enforce. . . ?

PROF. LOGAN: We are still talking about construction unions?

MR. WREN: Oh, yes. Oh, yes. . . building trades.

PROF. LOGAN: Well, I would say that back in the days when the carpenters' union stayed outside, just before they had the Joint Board, the carpenters' union was outside, this system must have suffered, and it says so, I think the record says so.

MR. WREN: I understand that, but what my question is, is there any legal machinery in the United States, in the Taft-Hartley Act to compel any union to subscribe to the general principles where they are not directly associated with the parent body?

MR. MYERS: The National Labour Relations Act.

PROF. LOGAN: No. I don't think there is. As a matter of fact it is the Department of the American Federation of Labour, the Building Trades Department. . .

MR. WREN: Yes, but if failing their compliance with the National Joint Board's ruling, that they fail to or to agree to



comply with that ruling, is there anything in the legal machinery of American Labour Law which would compel them to go along with an understood principle?

PROF. LOGAN: I am afraid I can't answer that.

MR. MYERS: Well, how do you force the decision?

PROF. LOGAN: I think that in that Lee case, the Virginia case that is mentioned here -- I think the Lathers were -- the Labour Relations Board probably followed up with an order on the Lathers. They tried to squeak out. They were members to it, they were signatories to it, but they refused to carry on with the National Joint Board's decision. But, your suggestion is somewhat different from that again.

MR. WREN: Yes, what I'm getting at is, or presuming that we build up some method of dealing with jurisdictional disputes then we find that a major union in the building trades which is at disagreement with, say, the C.L.C., or an Ontario affiliate - how would we go about enforcing, or is there any other precedent in any other country to cover this situation?

MR. MACDONALD: Well, Professor Logan, on that point, surely when you get to the level of state enforcement the state enforcement will apply to any union whether or not it was part of the joint body that arrived at the decision or not.

MR. WREN: Yes, but you are basing your decisions on agreements which have been entered into -- how are you going to rule upon people who haven't entered into or have left the area of agreement?

MR. METZLER: Mr. Chairman, may I make an observation on this matter? I know that Mr. Wren is referring to the Operating Engineers union. Now, I think it should be borne in mind that the Operating Engineers union has two aspects of its work; it is not only engaged in the construction industry but it also closely engaged in the industrial life of the Province. What I am wondering -- I have no answer to the





question -- I believe that the action taken by the Canadian Labour Congress was in respect of its activities in the industrial aspect of its work rather than the construction industry.

MR. WREN: Yes, but nevertheless they are now outside. . .

MR. METZLER: That is what I was coming at. I am wondering what their position is in their association with the American Federation of Labour-C.I.O.? They may still be within the confines of the parent body in the States and therefore amenable to the National Joint Board, so they would be affected by any decisions. One of the aspects of this thing that I think should be borne in mind, and I think that I indicated at the outset, that Professor Logan had a free hand to prepare this paper because this was a highly difficult and a highly controversial matter, and this is his thinking on it. But it raises one or two problems that I think will be of interest to the Committee. First of all, jurisdiction of all these construction unions is laid down in the constitution of the unions and when you sign a contract with a local union it is in respect of the jurisdiction that that parent organization exercises in the field of the construction industry. Is that not so?

MR. J. POWADIUK (Pigott Construction Co. Ltd): It is not so at all. That is a very important matter in present-day negotiations. . .

THE CHAIRMAN: Who is this gentleman?

MR. POWADIUK: I am Pigott Construction Personnel Manager.

MR. METZLER: Well, I would be interested in hearing what. . . Well, then, I start from a wrong premise, but I certainly was under the impression that where a carpenter claims jurisdiction as a carpenter but he's not interested but he is not interested in claiming jurisdiction as a brick-layer. That was the premise on which I started. But there is laid down in their industry a jurisdiction. It's in the fringe





areas that I think that Professor Logan stressed that your trouble occurs; change of materials and things of that character. But, more than that, there's another aspect of this thing that I think should be borne in mind, there are other unions that exercise jurisdiction in the construction industry that are not within the confidence of this National Joint Board -- for instance, we have here in Ontario local unions of the United Construction Workers who are affiliated or associated with the United Mine Workers. I don't think that they come within the confidence of that National Joint Board. And you do have that further complication to take into account when you are attempting to arrive at any conclusion. But, historically, there have been jurisdictions and I would image that these jurisdictions having been established many years ago that the unions, naturally enough, are going to try to retain those jurisdictions and we have recognized in the Ontario Labour Relations Act the fact that there are international unions and we provide for the certification of these unions, their appearances before the Labour Relations Board, and things of that character. I think that you've got to bear those things in mind as a factual position in attempting to deal with what you are going to do with jurisdictional disputes.

THE CHAIRMAN: Gentlemen, do you think Professor Logan's services are required this afternoon? It is now one o'clock.

MR. METZLER: Mr. Chairman, before you shut off, it might be advisable to have Mr. Powadiuk, if he cared to, to make an observation on that, because I would like to have that point clarified in my own mind.

THE CHAIRMAN: Would you care to make any observations to the Committee, Mr. Powadiuk? Please come up and put it on the machine.

MR. POWADIUK: This is certainly ad hoc off the cuff, . . . and I don't. . .

MR. MYERS: Probably it will be better that way.



MR. POWADIUK: . . . and I don't presume to speak for the construction industry, only inasmuch as I have been associated with some of the work that has been done and listening to the proceedings here. My observations take into consideration the fact that I am not anti-American, and I am not anti-International Unionism, no more than I stand against International Commerce or international connection in terms of business. I am not confusing the issue in that light, but I do say that we as Canadians have abilities that we are often loath to admit we have. I think as Canadians we have intelligence to row our own boat. Now, certainly the influence of international unionism has been felt and established. There is no use denying that. But, on the other hand, this does not mean that administratively we must rely on the Solomon to come from Washington. I think we have it within our power to determine the destiny of where we, as Canadians, are going, and I don't see anything wrong with the director of any particular union having relations, both direct and indirect, with the president of a union in the United States. On the other hand, the director of a Canadian union has a responsibility in terms of our own laws, in terms of our own conditions -- one of the things that shock me is that I had listened to a presentation or to a hearing at the Labour Board recently where the international representative said that his first allegiance was to his union and secondly to the laws of this country, or this Province. Now, that might be a formal attitude and not necessarily a definitive legal position, but it does sort of shake you a bit. Now, in terms of the construction industry in Canada, I think we are going to have a peculiar set of circumstances, that we are going to develop our North and that these conditions certainly don't apply as far as the American contractors, the same degree - at least, I hope not. One other point is that I feel that we are being quite sober here in terms of our deliberation, and I think that the Committee should be complimented in terms of the diverse views which are represented on the Committee. I think that there is need for



recognizing the peculiarities of our Canadian customs, and I don't see that it's going to be a tremendous difficulty in terms of establishing some statute to control - protect the public from the union or the contractor that is prepared to play games in terms of public needs, and I do think, thought, that somewhere in our structure we will require a Canadian statute, whether it emanates and starts with Ontario, I don't know, but I certainly feel, it is one of my strong feelings, that we have room for a development of a labour relations history right here in Canada, and it is going to weaken our whole development, I think, if we have to keep relying on Washington. My fear is that possibly within some short while we might have to go to Switzerland to get our jurisdictional .

I understood that Mr. Metzler said that when a general contractor signs a contract with a union that he automatically accepts the jurisdiction as claimed by that union. . . am I correct?

MR. METZLER: I wouldn't say not altogether. I said that there is a jurisdiction contained in the constitution of the international unions, and when it comes to signing an agreement with able men of the international unions I would expect that they respect that jurisdiction as the basis upon which he was contracting.

MR. POWADIUK: It is a matter of real life that the unions are now presenting that kind of clause for negotiation in terms of demands, but it is not a fact that the contractor accepts the jurisdiction. In the Hamilton agreement signed a few weeks ago there is such a clause, that the Hamilton Builders' Exchange accepts the jurisdiction of this particular union, but that has been negotiated. In some of the national contracts that are signed that is included also. But, in the Builders' Exchange or local contracts, it is always up for negotiations. It is not automatic.

MR. MACDONALD: Well, Mr. Chairman, surely to Mr. Powadiuk or to Mr. Metzler the signing of such a contract would not preclude some recognized body, the Joint Board, or the Ontario Labour





Relations Board redefining the jurisdiction.

MR. METZLER: That could be. What I am driving at is that you wouldn't sign a contract with the bricklayers union to do carpentry work.

MR. MACDONALD: There is no problem there. The problem is where you have marginal overlapping.

MR. METZLER: Yes, you have marginal overlapping. But, what I am saying is that it is laid down the type of work that a bricklayer is expected to do within the charter or constitution of the international union. Now, when the bricklayer signs the contract he would be expected to do that type of work rather than do carpentry or anything of that nature.

MR. YAREMKO: I mentioned this to Professor Logan earlier, that at the time that the construction trades were presenting their Brief that their main position was that they wanted this problem to be settled between the fighting departments, that in effect they took the position to the unions -- you decide in whatever method you see fit, whether it be locally, or down in Washington, but you decide quickly between yourselves who is to do this work and we will assign the work accordingly.

MR. POWADIUK: I feel that the contractor, with Professor Logan, that the contractor has a responsibility isofar as assignments or what is the jurisdiction of each particular trade. You can get into a situation where - and it's a realistic situation - where the claim is that the carpenters should be doing some work that the labourer has been doing, and vice versa, particularly where you have such a rapid change in a method of construction and the material used. Now, the contractor is in a very difficult position at the time that a dispute takes place inasmuch as he would often lose a great deal more of money on his contract on the basis that there is a dispute rather than what the assignment is. He might even lose something in assigning it to a higher paid trade -- he'd rather do that than have the work stopped, because then he loses a heck of a lot





more. Now, often times I believe that the contractor does say, as Mr. Yaremko has stated, that you people decide and we will go along with it, mostly because there is a certain degree of desire of compliance with the National Joint Board. The contractor might complain considerably about the structure of it and his lack of representation and the fact that it is in Washington, and so forth, but that is the only recourse he has and therefore he still wants to utilize that tribunal, such as it is.

THE CHAIRMAN: I understand the contractors were invited to join and refused to do so.

MR. POWADIUK: I don't know.

THE CHAIRMAN: That's what I gather.

PROF. LOGAN: That is the question in my mind - why don't they try it? Why haven't they tried it? And I would like to stress, too, this Washington idea and the National Joint Board -- it is an international joint board completely on labour's side. It is not a question of loyalty to one or the other doing something for Americans and enforcing some American Board decision here because it's a Joint Board with Canadians on it. The contractors, however, have not joined, so it's a one-sided proposition as it stands and if that is to be the ultimate in it, that there's to be no joint activity in Canada in approaching this so-called American Board, well then it seems to me that Mr. Jackson's suggestion is about the only thing to do. You can't do something in the way of building up something in Canada simply as an advisory proposition. If we are not in a position to refer it along to an international body which is superior to that local body, but it is an international body apart from the possibilities of the thing being too big and slow moving, I don't see anything disloyal or lacking in sovereignty and so on in working with an international body and our legislative group enforcing and perhaps reviewing legal aspects around it before enforcing it, but at least taking a Joint Board decision by an international joint board. That's my logical position.



THE CHAIRMAN: On which Canadians have representation.

MR. POWADIUK: I think, Mr. Chairman, just to differ slightly with what Professor Logan has stated, and that is that this problem is going to be so complex that the very thought of a very large compass in itself will be very unwieldy. A recent survey has pointed that in spite of the fact that we have a Joint Board in the State of New Jersey for the year '56, there was approximately two work stoppages a year occurring and the volume of work was about a third of what it is in Ontario. But, that in itself, having jurisdiction boards does not solve the problem although it's a step in the right direction. That's the point.

THE CHAIRMAN: Thank you very much. Now, do we need Professor Logan again? If not we'll excuse him and hear Professor Finkleman this afternoon. Thank you very much, Professor Logan for a very able Brief.



## LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONSTUESDAY,  
April 29th, 1958.AFTERNOON SESSIONAPPEARANCES:

PROFESSOR J. FINKELMAN - Toronto, Ontario

PRESENTATION:

- (1) THE USE BY MUNICIPALITIES OF THE POWER UNDER SECTION 78 OF THE LABOUR RELATIONS ACT TO DECLARE THAT THE ACT SHALL NOT APPLY TO THEM IN THEIR RELATIONS WITH THEIR EMPLOYEES.
- (2) ANALYSIS OF APPLICATIONS FOR CONSENT TO PROSECUTE UNDER LABOUR RELATIONS LEGISLATION IN ONTARIO.
- (3) ANALYSIS OF APPLICATIONS FOR DECLARATION THAT STRIKE OR LOCK-OUT UNLAWFUL UNDER LABOUR RELATIONS LEGISLATION IN ONTARIO.

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THE CHAIRMAN: Gentlemen, it is now two fifteen and three Briefs have been laid before the members of the Committee. Which one do you propose to deal with first, Professor?

PROF. FINKELMAN: Mr. Chairman, I thought that we'd present the one on the municipalities first and then follow it with the one on Prosecutions and, in the third place the material on Strike Declarations.

I should say that these are not in reality Briefs, but rather statistical summaries of some of the Board's activities that were asked for earlier supplemented by some of the Statutory provisions relating to these matters. I don't know if the members of the Committee had a chance



to read these, or do you want me to read them through?

THE CHAIRMAN: If you don't mind, I think we would like to have you read them.

The first Brief was taken as read.

THE CHAIRMAN: No questions?

MR. ROWNTREE: Are there any figures readily available as to the number of Municipal Councils in Ontario, the number that has made this election and those who did not? Or any reference to the number of other authorities which might take advantage of it?

PROF. FINKELMAN: Well, Mr. Rowntree, as I explained on a previous occasion, it would be almost impossible - it's a practical impossibility for us to gather the information because we would have to have not only a list of the various Municipal Councils in Ontario and circularize them and ask them what they did, but if you look on Page 2 of the Memorandum and you see the wide variety of authorities that are covered it is an absolute impossibility for us to get that information.

THE CHAIRMAN: Is it your conclusions, Professor Finkelman, now, from the experience that more and more municipalities are not taking advantage of this Section 78?

PROF. FINKELMAN: I can only refer you to the figures that I have cited, Mr. Chairman. I wouldn't know how many cases there were in which by-laws were passed, or resolutions were passed, apart from those that come to our attention in applications that are filed before us.

THE CHAIRMAN: Any further questions, gentlemen? Which one do you care to deal with next? Prosecutions, is it?

PROF. FINKELMAN: Prosecutions.

The Second Brief was taken as read.

THE CHAIRMAN: Any questions, gentlemen?





The Third Brief was taken as read.

THE CHAIRMAN: Any questions, gentlemen, on this Memorandum?

PROF. FINKELMAN: Before the questions begin, Mr. Chairman, I would like to draw your attention to the fact disclosed on Page 4 of the Memorandum, in Table 2, that we have succeeded in cutting down the time lapse very substantially over the years since 1950. You will note that in 1951 the median time between application and hearing was fifty-one days, and that has gradually been cut down until now the median time runs from seven days and the long period of time is usually taken by cases which have been settled before the hearing or, rather, the strike has been settled, the lock-out has been settled, before the application comes on for hearing, or where there may be other complicating factors that do not really relate to the fact there's an on-going strike or lock-out.

THE CHAIRMAN: Any questions, gentlemen? Thank you very much, Professor Finkelman, for this information which will be of great help to the Committee.

The hearing was adjourned to 10:30 a.m. Wednesday, April 30th, 1958.





















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